

**MINUTES FOR THE REGULAR MEETING
OF THE PLANNING & ZONING BOARD
HELD TUESDAY, MAY 3, 2011; 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the May 3, 2011 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Ed Mead, Robert Dickman, Gregory Vetter, Vice Chair; Janet Golden, George Gasper, Victor Ferrante, Kevin Liddy, Susan Shaw, Chair.

Not Present: Mark Bender, KathyLynn Patterson

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

C. PUBLIC HEARING CLOSED 4/20/11; Expires 5/19/11

1. **89 POND POINT AVENUE – 3 LOT RESUBDIVISION (ZONE R-12.5)**
Petition of Two Ninety Six LLC/Gregory Field, for approval of a three-lot re-subdivision to construct two single family residences on Map 57, Block 529, Parcel 45A, of which Two Ninety Six LLC is the owner.

Mr. Vetter: Stated he was not present at the last meeting and was returning to the waiver that the ZBA provided, which shortened the yard for one parcel to 12 or 15 feet. Asked if it made sense to give the developer flexibility on the rear lot of one acre in order to allow the front parcel to have a larger yard. He mentions this because when trying to plan properties, this type of situation is allowing a backyard that is unreasonable.

Mr. Sulkis: Clarified that the lot line adjustment gives the other property a larger rear yard and that would automatically occur with the approval of the subdivision. Because once the subdivision is approved and the mylar is filed, it will be on the approved mylar.

Mr. Vetter: Said he was speaking about the property next to the one Mr. Sulkis was speaking about.

Mr. Sulkis: Yes, it is 13.5 feet. They have the variance. It is granted. That is the official rear yard. That is a legally conforming lot because of the variance.

Mr. Vetter: They couldn't change something because they need to maintain the one acre in the back and that was done for the Board. He does not know if it is worthwhile for the Board to offer something in the motion.

Mr. Sulkis: There is only one owner and they did this to themselves. It is a legal rear yard, albeit 13.5 feet.

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Mr. Ferrante: Stated he understands the concerns of the neighbor. The applicants have done everything the Board has asked them to do to satisfy the concerns of the neighbor. This is not a wetlands situation and the neighbors have been there for many years.

He moved to approve the three lot re-subdivision at 89 Pond Point Avenue and to approve the petition of Two Ninety-Six LLC/Gregory Field, to create a three lot re-subdivision and construct two single family residences on Map 57, Block 529 Parcel 45A, of which Two Ninety Six LLC is the owner, with the following conditions:

1. The Applicant shall provide drainage as-builts.
2. A notice shall be included in the deed that requires the property owner to maintain the drainage system.
3. The driveway to the rear lot shall be constructed of a pervious material, with the area immediately adjacent to the house being of an impervious material if so desired.

Mrs. Golden: Second.

A vote was taken: Seven members voted in favor of approval. Mr. Vetter abstained because he had not been present at the last meeting, nor heard the recording of the meeting. The motion passed.

D. NEW BUSINESS

2. 1201 BOSTON POST ROAD (ZONE SCD) – CT POST MALL

Petition of Branchwater Productions, Inc., d/b/a Cole Bros. Circus of the Stars, for a Site Plan Review to conduct a circus from June 13 through June 15, 2011, on Map 89, Block 812, Parcel 40A A, of which Westfield, Inc. is the owner.

Tim Orris, PO Box 127, Deland, FL 32721. The Cole Bros. Circus has been around for 128 years. They have been at this location, the last time being in 1992. There is presently a carnival going on at the same location. There is plenty of space with a lot of parking. The property is engineered for traffic. The circus is a family friendly event. No alcohol, games of chance or mechanical rides. It is a two-hour show with assigned seating. Families will be bringing children primarily under 12 years of age, so that does not bring a lot of cars into the area.

Mme. Chair: The site plan rendering that was presented to the Board is hand drawn. There are two hand drawings and the others are plans for the actual tent and the A-2 surveys for the Westfield Mall.

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Typically, the Board wants to see a full site plan that delineates the locations very clearly. However, the site plan presented is the only one the Board has to work with at this time.

Mr. Orris: Noted he uses this site plan all over the country.

Mme. Chair: Asked for staff comments.

Mr. Sulkis: Stated he had a difficult time reading this site plan. Today the Fire Department referral which called for a 28-foot fire lane directly adjacent to the big top on all sides, which should be maintained throughout the performance and a 28-foot fire lane in a straight clear path to the closest fire hydrant be maintained throughout the performance. Based on these comments, and even though he cannot read anything on the site plan, he does not think it complies with the Fire Department's recommendations.

Mr. Orris: Questioned 28 feet. Said BOCA requires 20 feet. Asked where the other 8 feet comes from.

Mr. Sulkis: From Tower One, the Fire Department's largest fire engine, which they use for tall structures. Also, a two line police report was received via email.

Mme. Chair: Noted the dates of the circus would be June 12th to the 15th. Asked if this is the reason this application is presented with such speed.

Mr. Orris: Yes.

Mrs. Golden: Presented some questions: Has the Health Department signed off on this?

Mr. Sulkis: That would come later in the process. The Planning and Zoning office did not refer this out. This was a rush job and the applicant on his own went and delivered plans to the departments.

Mrs. Golden: Because there will be animals there she is concerned about health issues with cleanup etc. Lighting is not addressed. Sees that as a safety issue, especially with so many small children being present. Asked how many officers would be there. Cannot just rely on mall security.

Mr. Orris: Contacted the police department and has not received a reply as to how many people he has to hire for security.

Mrs. Golden: Would not feel comfortable approving this without the three items she stated being addressed.

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Mr. Orris: The Health Department has the health information on all the animals. They also have the food handling permits for the circus. This circus has been doing business in this state for over 128 years. Will do everything he can to comply with what is requested.

Mr. Ferrante: Noted this event will be held at the CT Post Mall parking lot where there is lighting. The Board generally receives a lighting plan for a site plan review.

Mr. Orris: Noted there are spotlights on each of the six poles of the tent and they are noted on the drawings.

Mr. Ferrante: Asked if this application could be granted conditional approval. If they do not meet the police requirements they will be shut down.

Mme. Chair: Would rather hear what concerns the Board has now. Security staff people are noted in the statement as providing extra help. Asked for elaboration on the extra help that will be needed. Security is needed in many areas.

Mr. Orris: Six people at each of the entrances; 20 ushers inside the tent; and then there are three that patrol in the evening when the public is not there, to make sure people do not get in some place where they are not safe. Total of 20 ushers in addition to the six gate security.

Mme. Chair: Are they trained security?

Mr. Orris: Yes. They do this in every city in the country. It is normal for a town to say we want you to hire three cops, or whatever they request. He tried to do this in advance of his coming to the area, but he did not get a response.

Mr. Liddy: Asked if this circus used to present shows at the old Jai Alai.

Mr. Sulkis: There are two circuses that have come to Milford. This circus last performed in Milford in 1992 at the Connecticut Post.

Mr. Liddy: Asked what animals would be in the circus besides elephants.

Mr. Orris: Elephants, tigers, camels, llamas, ponies and poodles.

Mme. Chair: Asked about the 23 tractor trailers and 30 RVs that will be parked in some capacity on the premises. Asked how the animals all fit into 4 or 5 pens that are designated on the site plan.

Mr. Orris: A compound for the elephants. A compound for the dogs and there is a compound for the llamas, camels and ponies all together.

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Mr. Vetter to Mr. Sulkis: Asked if the Board was the last measure for this application. Wouldn't the Police and Fire Department weigh in from a safety standpoint? The P & Z is not the last voice in terms of safety in the environment.

Mr. Sulkis: Typically, when a plan comes before the P & Z Board, the Fire Department looks at it twice. They look at it in terms of access of the site and access to water, which is what the fire department report that was received today speaks to. When they go for their building permit, then the fire department looks at everything that they do in terms of the actual fire codes. He could not speak to the Police Department based on the two lines that were received via email

Mr. Vetter: Asked about the Building Department getting involved to check the seating, etc.

Mr. Sulkis: Upon approval by the P & Z Board, it would be necessary for them to get a building permit to oversee construction of the big top, etc and whatever is set up inside.

Mr. Orris: Noted the State Fire Marshal will be on site all hours that the circus is operating. State police officers and State fire marshals are required to be there by State law.

Mme. Chair: Asked for an estimate of the number of people expected to attend.

Mr. Orris: Because these are weekdays, Monday through Wednesday, expecting 800-1200 people per show. 800 for the 4:30 show; more likely 1200 for the 7:30 show. School is still in session so you won't have sell out shows on weekdays at this point.

Mrs. Golden: How many people can the tent hold?

Mr. Orris: 2,168. Two-thirds of the people buy tickets in advance. About a third buy them the day of the show. It's assigned seating. The seating chart was included in the Board's information.

Mr. Liddy: Asked if there would be any pyrotechnics going off.

Mr. Orris: Only thing close to pyrotechnic is a cannon that creates a loud bang.

Mr. Liddy: Asked about any incidents that may have occurred at the circus in the past 30 years.

Mr. Orris: In New York about 12 years ago there was an elephant fighting with another elephant. Also in New York at one time there was a tiger out of his cage for a short period of time and they got it back in very quickly.

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Mr. Ferrante: Questioned if everything was contained within the tent. No outside concession.

Mr. Orris: There is one big semi at the entrance, but it is not like a carnival with a lot of different booths.

Mrs. Golden: Asked if there was a veterinarian on site.

Mr. Orris: Two vets on call; a large animal vet and a small animal vet. It would be impossible to have one vet licensed in all the states the Circus performs in.

Mr. Mead: Concerned that for fire protection there are only hand held fire extinguishers. Would feel more comfortable if a fire truck would be on site at all times.

Mr. Orris: That is required by Connecticut law. The fire truck must be on the premises.

Mme. Chair: Stated the site plan presented was not adequate and complete enough for her to feel comfortable approving it. Safety, parking of tractor trailers, fencing around the animals, etc. This plan is incomplete and places the Board at a big disadvantage in taking it on faith. Would rather the Board take action when there is a site plan that answers the questions that have been raised.

Mr. Ferrante: The Board does not get this type of application too often. Does not think the Board is qualified. Asked who in the City would be qualified to determine whether the containment of the animals is satisfactory.

Mr. Sulkis: Stated he did not think that was the concern expressed by the Chair. The comment of the Chair stated it was not shown on the site plan. He could not read the site plan that was submitted. He enumerated the information that was lacking on the site plan provided.

Mr. Orris: Explained where the trucks would be parked. He could make changes to the plan if necessary.

Mr. Dickman: There is a more professionally rendered site plan showing the layout and it does not match the hand written site plan. He suspects there is more information included on the hand drawn site plans than he can interpret, but there is no legend that tells him what a box with a circle in it means and there is no legend that tells what any of the symbols are. He understands the need for speed on such an application, he is very uncomfortable with the differences between the two site plans and the lack of instruction as to what is what on the hand rendered site plan.

Mr. Orris: Explained to some degree how he devised the site plans.

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Mrs. Golden: Pictures and posters depicting fencing, animal enclosures, etc. would have been more helpful to the Board.

Mr. Liddy: Asked how long Cole Bros. circus was in business.

Mr. Orris: 128 years.

Mr. Liddy: Stated he thinks Cole Bros. knows what they are doing after 128 years. Surviving for so many years they know what is needed to put the show on successfully. They will do what they have to do to be compliant with State law.

Mr. Dickman: Pointed out there are a number of businesses that have been operating in Milford and in the state generally for decades, but when they come before this Board they are required to submit plans in an appropriate way that is interpretable by the Board so that a reasonable judgment can be rendered. He does not think that is what is happening here.

Mr. Vetter: Agrees the plans are hard to read. These are temporary structures. The Board is not being asked to make a permanent decision on the plans presented. The initial points brought up were around safety and that is very important. The decision is mainly the layout and a common sense approach to safety and he thinks the police department is better suited to do this. The Building Department will oversee the construction and structure of the stands, etc. The fire and police will be handling the safety aspect. With regard to placement of the equipment within the lot, this is on private property. It is up to the landlord to make sure that his patrons are safe and that the lot is kept in a normal fashion. He believes the other groups will perform their tasks. However, this is difficult for the Board to read quickly and approve it. He is okay with deferring to the groups who will be involved in checking on the safety factors.

Mr. Ferrante: Asked why this was not being treated the way temporary sale tents are treated.

Mr. Sulkis: Asked if the question was why this application was not being held to the same standard as tent sales?

Mr. Ferrante: Did not think that A-2 surveys were required.

Mr. Sulkis: There is a difference between a temporary small tent for a sale versus a circus. This just happens to be contained in a tent.

Mme. Chair: This is the information that will be in the file to be considered adequate information regarding a circus that can have 1200 people, 800 of whom will be children. This is not what is usually accepted. The Board should have a site plan that answers all the questions.

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Mr. Ferrante: Who decides what insurance is enough?

Mr. Sulkis: Not Planning and Zoning.

Mr. Orris: State of Connecticut dictates what is required for circuses.

Mr. Mead: Asked for a more professional rendering of the site plan.

Mr. Orris: Will ask his architect to do it.

Mr. Sulkis will provide Mr. Orris with a list of items required by the Board to be presented at the next meeting.

E. BOARD MEMBERS GREEN GUIDELINE BOOK AND BY-LAWS

Ms. Shaw: At the last meeting a consensus was that a subcommittee should be formed to review the green book. Minimum of 4 and maximum of 5 people on the subcommittee. The subcommittee will consist of members Vetter, Ferrante, Patterson, Dickman and Gasper.

Scope of the subcommittee is to review the Green Book completely and to come back with suggestions for changes and the reasons for the changes.

Mr. Sulkis will guide the committee on how to conduct the subcommittee meetings.

Mme. Chair: Had asked Mr. Sulkis to provide copies of FOIA, Site Visits and Ex parte to the Board.

F. PLAN OF CONSERVATION AND DEVELOPMENT

Mr. Sulkis: Will be meeting tomorrow with the Park & Recreation staff to bring them up to speed. Will meet with Community Development in the near future. In the process of finalizing the contract for the consultant on this project.

Board Liaisons: Mr. Gasper will be the liaison with Devon. Ms. Golden is working on open space and some transportation issues. Mr. Ferrante is working on waterfront design. The Chair is working on community gardens and some transportation issues.

Mr. Vetter: Asked if there was an updated time schedule as to who is meeting when.

Mr. Sulkis: Ms. Harrigan is working on it and will have it for the next meeting.

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G. LIAISON REPORTS

Mme. Chair: Economic Development Commission meeting – There is a move to bring Harrison's back via an Ace Hardware store.

H. APPROVAL OF MINUTES – (4/5/11 and 4/20/11)

Mr. Vetter: Motion to approve the minutes of the April 5, 2011 meeting, with corrections made at the April 20th meeting.

Mr. Liddy: Second.

All members voted in favor of approving the 4/5/11 minutes.

Mr. Dickman: Motion to approve.

Mrs. Golden: Second.

All members voted in favor of approval of the minutes.

I. CHAIR'S REPORT

Mme. Chair: There will be a seminar presented by the Land Use Academy on Saturday, May 14, 2011 from 8:30 a.m. to 3:00 p.m. It takes place at UConn at Storrs.

Mr. Ferrante: Asked if this seminar was offered to the members of the Zoning Board of Appeals.

Mr. Sulkis: Every year. We can make sure that it was offered again this year. But every year they are reminded of it.

Mr. Ferrante: Reminded the members the City of Milford will pay the tuition.

Mr. Sulkis: Yes. Well, if you would like to attend, let us know.

Mr. Ferrante: Had attended such a seminar and encouraged everyone to attend. This should be talked up. Anybody who is relatively new to the Board should go.

Mme. Chair: We can promote it and perhaps have a buddy system.

Mr. Liddy: Complimented Jocelyn Mathiasen, DPLU Director on her letter to the editor that was very well written and appreciated.

STAFF REPORT - None.

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Mr. Vetter: Motion to adjourn.

Mr. Liddy: Second.

The meeting adjourned at 8:33 p.m.

Phyllis Leggett, Board Clerk