

**MINUTES FOR THE REGULATION MEETING
OF THE PLANNING AND ZONING BOARD
HELD TUESDAY, MAY 17, 2011; 7:30 P.M
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the May 17, 2011 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Edward Mead, Mark Bender, Robert Dickman, Janet Golden, Kathy Patterson, George Gasper, Victor Ferrante, Kevin Liddy.

Not Present: Gregory Vetter, Vice Chair.

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

C. EXECUTIVE SESSION

**RECYCLING INC., ET AL V. PLANNING AND ZONING BOARD OF THE
CITY OF MILFORD (DOCKET NO. CV09-4012214 S)** – Settlement offer discussion concerning pending appeal from denial of Special Permit and Site Plan Application.

Mme. Chair: Going into Executive Session requires a two-thirds vote of the Board.

Mr. Liddy: So moved.

Mrs. Golden: Second.

All members voted in favor of the Board going into Executive Session.

Mr. Ferrante: Asked to reorder the agenda to accommodate the one other item on the agenda.

Mme. Chair: Responded she preferred not to reorder the agenda.

The Chair asked for the Board to approve the City Attorney, Win Smith and Trial Attorney, Matthew Woods, as well as David Sulkis, City Planner to join the Board in Executive Session.

All members voted in favor of Messrs. Smith, Woods and Sulkis joining the Board in Executive Session.

The Board members and guests left the auditorium to go into Executive Session at 7:32 p.m.

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The Board members returned from Executive Session at 8:07 p.m.

Mr. Dickman: Made a motion for the Board to come out of Executive Session.

Mr. Ferrante: Seconded.

All members voted in favor of coming out of Executive Session.

D. 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 Westfied, Inc. is the owner.

Timothy Orris: Submitted a new site plan to the Board. He noted a few minor changes that were made from the previous plans submitted. He also complied with the changes the Board requested at the last meeting.

Mme. Chair: Thanked Mr. Orris for providing the material the Board had requested.

Mr. Sulkis: Did not get the usual reports from the Fire Department and Police Departments. Got a message from someone that he assumes is in the Police Department responding to the number of officers that would be required. Also received a letter from the Health Department.

Mr. Ferrante: Moved to approve 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 Westfied, Inc. is the owner, subject to complete field compliance with all police and fire directives.

Mr. Liddy: Second.

All members voted in favor. The motion passed unanimously.

Mr. Ferrante: Thanked Mr. Orris for coming back with the information the Board requested. Also thanked the Board members for their completeness on this application.

Mr. Orris: Thanked the Board as well for their help.

E. BOARD MEMBERS GREEN GUIDELINE BOOK AND BY-LAWS

Subcommittee has not met yet and Mr. Vetter is not present tonight.

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F. PLAN OF CONSERVATION AND DEVELOPMENT

Mme. Chair: She and Mr. Sulkis met with the Park and Recreation Department.

Mr. Sulkis: Had a good meeting with Bill McCarthy, Director of the with Park and Rec Department. They were flattered to be included in the Plan, because they were not consulted in the previous plan. Learned about the fields and how they are used, as well as park and recreation programs. They are in the process of updating information which will be helpful and should be incorporated into the Plan.

Also had a meeting with Bob Gregory and Tom Ivers of the Community Development office. Talked about general development and neighborhood plans.

Mrs. Patterson: Met with the Chief of Police and spoke of her concerns about sidewalks, safe walks, what they feel is needed to be looked at in the Plan of Conservation and Development. Will be presenting their suggestions to the team.

Mme. Chair: All this information will be put in writing. A letter will be going out from Mr. Vetter and herself representing the Board, which will outline the goals, time line and other information to various boards and commissions.

G. LIAISON REPORTS

H. APPROVAL OF MINUTES – (5/3/11)

Mr. Dickman: Motion to approve

Mr. Bender: Second.

All members voted in favor of approving the May 3, 2011 minutes.

I. CHAIR'S REPORT - None

J. STAFF REPORT

Mr. Sulkis: Distributed a memo to the Board members. He gave a history of the issue. Periodically there have been issues with rear lots. Over time different boards have expressed an interest in either changing the rear lot regulations and making them more clear, or eliminating them entirely and not allowing rear lots. There are plenty of cities and towns that do not allow them, but currently, Milford does allow them.

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He has prepared some proposed changes to the rear lot regulations, if the Board finds that keeping the rear lots is a desirable thing to do. If the Board would like to keep the rear lots in the regulations, he suggested some language changes. If they decide that rear lots are more of a headache and want to get rid of them, then he made suggestions for that language as well.

This is a draft that he wanted the Board to look at and think about before the next meeting. He asked to move these changes forward, one way or the other, with the Board's approval to either clarify those regulations or get rid of rear lots. Stated there are two rear lot applications that are in the hopper and these applications will not be affected by the change in either way. There would be a moratorium for any new applications that would be proposed when the regulation change is pending.

Mr. Liddy: Asked what problems have been presented by the public with regard to rear lots to create this need for change.

Mr. Sulkis: The way the regulations are currently, and part of those regulations are within the zoning regulations, so applicants can go before the Zoning Board of Appeals and change the requirements or get a variance from the requirements to allow the development of rear lots. For instance, changing the lot size or getting a variance for an already existing lot in terms of its width, making it smaller, so you have what is a complying lot now that they can get a waiver for from the Board that would create a lot that would not meet today's regulations, so they are able to subdivide and create a rear lot. There are neighbor disputes around the City from rear lots where you have one or two rear lots or someone in the front and someone in the back and you go out the back door and it is the front of someone else's house. Typically that is not desirable in a mature community. You have an expectation that when you go out your front door it is the front door to the street. You go out your back door and you might see someone else's backyard but it is not someone else's front yard. People buy those kinds of lots know what they are getting. That is why this is somewhat of a judgment call. In some instances they work and in other instances they do not. There are municipalities that do not allow them at all. The thinking is, if you have a lot it should be on the street. It should be as conforming as possible to the zone that it is in. You know where the front is and where the back is.

Mme. Chair: In any event, the first one will put the authority exclusively on the Planning and Zoning Board regarding rear lots to make that judgment. The second suggestion will be to say that they are simply disallowed.

Mr. Dickman: Asked if there was an implied option three to not change anything if the Board chooses.

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Mr. Sulkis: No, because there is some discussion with some people in town about what --- if you look at the zoning regulations, they have certain standards that are within them for rear lots, as does the Subdivision Regulations. By having the regulations in the zoning regulations, you give applicants the option of going to the Zoning Board of Appeals and letting the Zoning Board of Appeals basically do subdivision work, which is, by statute, they are not allowed to be doing that. That is the Board's job. If someone needs to waive the subdivision regulations, that someone is the Planning and Zoning Board. The regulations as they are right now are problematic that way.

Another issue is there is a provision in the regulations for private access ways. The Board, over time, has viewed it one way. There may be other people in the community who may view it another way. Even if the Board decides to keep the regulations, the new language better defines it and makes it clear based on past practice of the Board what that means. If the Board thinks that is what it should mean, then that is good. If they do not think that is what it should mean, then that is fine. The regulations need to be made clear to anyone who looks at them.

Mr. Liddy: Asked what "fee simple assessment" means.

Mr. Sulkis: That means it is owned by the lot in the back. Right now the words are "private access way". The Board has not always interpreted it as fee simple, but that is not what it says. This change would make it clear that if you have the access way – sometimes they call these lots "flag lots", so the long portion of the flagpole basically has to be part and parcel of that rear lot. It cannot be an easement or some other mechanism going over someone else's land.

Mr. Liddy: What about sharing the same driveway?

Mr. Sulkis: If they share the same driveway you can have a shared driveway issue, but that rear lot has always been fee simple. You can have a lot in the front that has its proper frontage using that as an access to that as long as it has a minimum requirement for its front width it does not matter where the driveway is, as long as the Board approves its shared situation, which the Board has done on occasion.

Mr. Dickman: Commented that he senses a theme when it comes to changing of the language in the regulations and that theme is the Zoning Board of Appeals. The Board is not doing anything wrong here. The Board does not need any clarification as a board, but ---

Mr. Sulkis: Said in this particular case the Board does need to clarify its regulations.

Mme. Chair: Some of this comes out as a lot of the regulation changes since she has been on the board where questions have arisen. Not so much anything else, that stuff

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happens that the Board did not anticipate. Fee simple is a good example, where it was assumed it was always fee simple and when the Board assumes that the subdivision regulations were exclusively for the Board, that was the assumption because they were in a separate book and then the Board finds that it is interpreted somewhere else. It is really up to the Board to say and up to the community to say "which is it?". How do we want it? She thinks fee simple should be clarified, at least in the Board's own mind as to how they want it to be.

Mr. Ferrante: Asked to discuss correspondence received by the Board. Said he received a letter and he thinks most of the people on the board received a letter from the Cleary family. Since everyone received it, he asked the Chair to ask Mr. Sulkis to draft a reply, send it to the Board and send it out.

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Mr. Dickman: Stated he hoped that whatever response there was would include the idea that everything the Board did was public. There was notice given to everyone who was willing to look as to what was going on.

Mr. Sulkis: Noted that is what is always done and that transparency is key.

Mr. Ferrante: Noted he understood what Mr. Dickman was saying, however, neighbors expect a sign on the property when they talk about notice. They are not looking at the agenda, as the Board is.

Mme. Chair: That was not a public hearing. That the City. The public hearing is being held at the Board of Aldermen about the property.

Mrs. Patterson: Motion to adjourn

Mr. Dickman: Second.

All members voted to adjourn at 8:28 p.m.

Phyllis Leggett, Board Clerk