

PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 21 JUNE 2022, 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: N. Austin, J. Castignoli, J. Kader, B. Kaligian, J. Mortimer, R. Satti, M. Zahariades (joined at 7:08pm)

Not Present: E. Hirsch, C. S. Moore, J. Quish

Staff: J. Griffith, DPLU Director, S. Harris, Zoning Enforcement Officer; S. LaFond, Rec. Sec'y

In Chairman Quish's absence, **Vice Chairman Satti** opened the meeting. He announced that **852 Boston Post Road** has been postponed to July 5, 2022. He further announced that **1553 Boston Post Road** had been postponed to July 5th.

C. NEW BUSINESS

D. PUBLIC HEARINGS

CLOSE BY JULY 26, 2022; VOTE BY SEPTEMBER 29, 2022

- 1) **238 Zion Hill Road** (Zone R-18) Petition of Thomas Lynch, Esq. for a three-lot subdivision on Map 074, Block 934, Parcel 17, of which GAMS, LLC is the owner. (Postponed from 5/3 per Applicant)

Attorney Lynch, 63 Cherry Street addressed the board. He represents GAMS LLC, comprised of Angelo Lisi and Greg Field. This resubdivision is located at the intersection of Southworth Street and Zion Hill Road. It consists of 1.5 acres with an existing 2100 +/- sf house built in 1900, and a barn which will be taken down. The resubdivision will have 3 conforming building lots. Lot 1 will be 28,255 sf and contain the existing house with access to Zion Hill Road; lots 2 and 3 are roughly the same size and configuration, .42 acres each, and will have access to Southworth Street. Houses and lots meet all standards for the R-18 zone. Houses will be colonial construction; each will have city water, sewer, and underground utilities. The application meets all Fire Department standards regarding proximity to hydrants. Inland Wetlands approval was obtained. Sewer Commission also approved the application. City Engineer stated plan calls for widening and paving of Southworth Street; a condition of approval may decide some existing trees shall remain. City curbs and sidewalks will be required along Zion Hill Road and Southworth Streets per Public Works, which can be made a condition of approval. Police Department Traffic Division approved the application, noting lot 2 driveway will be the barn's existing driveway; lot 3 driveway will be located approximately 50' west of this. They report only 1 accident in 5 years, not related to sight line or driveway access. Tree removal was noted as a public safety measure. Existing trees are in the City right-of-way; as part of the widening and paving of Southworth Street at that location it would be advantageous to remove the trees. Applicant will adhere to the Board's decision regarding the trees. Mr. Steve Johnson, Tree Warden, has tagged the trees for possible removal. There are 3 zoning compliant lots, and application was reviewed by all city departments.

Vice Chairman Satti advised that **Mr. Zahariades** joined the meeting but may have missed the first minutes of the presentation. **Mr. Zahariades** was asked if he had any questions regarding the application; there were none.

Ron Wassmer, professional engineer, 158 Research Drive walked through the plans. Grading and drainage plan was reviewed. No extensive cutting or filling are required. Proposed widening of a portion of both Southworth Street and Zion Hill Road. This would be done in accordance with typical Milford City Engineering standards, with new street line 25' to center of existing right-of-way and proposed concrete curbs and sidewalks. Curb line 10' in front of right-of-way. Storm drainage provided on site; City Engineer asked for additional catch basins as a condition of his approval. Public water and sewer proposed. Wetlands are on the eastern side of Southworth Street and not on this property. However, the upland review area is 150' and thus, lots 2 and 3 are within the review area and plans were approved by the Inland Wetlands Commission. Sedimentation and erosion control plans indicate silt fence and tracking pads. The road Improvement plan shows a simplified view of the road widening. To the northeast of lot 1, on Southworth Street, existing bituminous curbing and proposed curbing are shown. Landscaping plan follows requirements of Zoning regulations. Proposal to remove existing street trees and install new street trees. Details sheet shows construction of sidewalks, drains, etc. Narrative and natural resource statement were prepared by Mr. Wassmer.

Vice Chairman Satti asked for questions or comments from the Board.

Mr. Mortimer asked for clarification regarding the City Engineer's request for storm drains. **Mr. Wassmer** clarified the City Engineer asked that catch basins be installed by Southworth Street as a condition of approval.

Vice Chairman Satti asked **Atty. Lynch** to clarify the Inland Wetlands Commission's requirement of a bond; the bond will be administered by the Inland Wetlands Commission. No action required by Planning and Zoning.

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Vice Chairman Satti asked for clarification of the new addresses for lots 2 and 3. **Atty. Lynch** explained the new addresses will be assigned by the Zoning office when zoning permits are applied for and will be on Southworth Street.

Vice Chairman Satti questioned whether demolition of the barn was part of the Planning and Zoning board approval. Per **Atty. Lynch**, this will be approved by the building department via a demolition permit.

PUBLIC COMMENT

Vice Chairman Satti asked for public comment.

Patricia Houser, 6 Westland Ave, spoke. She has traveled to the site and questions design decisions to widen road and remove trees. She is a member of the Milford Environmental Concerns Coalition. Width of road appears adequate; questioned whether there is a citywide standard for a semi-rural road. Asked if there is a record of safety problems. She notes the trees are not against the curb and she is wondering why they need to be removed. Current POCD states "managing land growth better and smarter." This roadway is between I-95 and the Merritt parkway. The existing trees filter air pollution and reduce heat. She posted benefits of a 48" caliper tree on her background screen. She asked when the preexisting standard for road width becomes a greater good than the ecosystem and human health benefits which the existing trees are conferring at their current size.

Nancy Iddings, 136 Housatonic Drive, spoke. The City needs to take a hard look at having trees, including 150-year-old oak trees, cut down to be replaced by a 4" caliper trees. It is good to replace trees, but we are not replacing 150 years of tree growth. New development needs to come, but she does not see the necessity to widen the street. Asked if a waiver can be given. New 4' sidewalk stops at Southworth Street, where homes start. Across the street there is a 28" sidewalk, creating 2 disjointed sidewalks. The City trees belong to the citizens of Milford.

Vice Chairman Satti questioned the existence of a Tree Commission report which does not appear in the presentation package but is referenced in the Board motions.

Mr. Harris read the Administrative Summary written by **Mr. Sulkis** and dated May 12, 2022. The summary indicated the conditions of approval in the City Engineer report items A through D. Applicant is not showing detail of storm sewers and catch basins in the City right-of-way, but plans can be revised to address this to the City Engineer's satisfaction. A bond will be posted by the applicant to guarantee all work required in the public right-of-way.

Atty. Lynch has not seen a Tree Commission report.

Rebuttal from Applicant

Atty. Lynch then addressed public comment. He explained applicants coming before the PZ board for a subdivision are bound by citywide standards for road width, curbing, sidewalks, etc. and clients cannot waive those standards.

Rebuttals from Floor

Ms. Houser interjected that she is an academic and teacher. Her courses indicate good planning contains site specific design. She asked if there was room to weigh the value of sustainability and pollution in the plans.

Rebuttal from Applicant

Atty. Lynch responded that regulations are promulgated and put into place by the City for a purpose. These standards for road widths, sidewalks, curbs, etc. - including 'sidewalks to nowhere' - are the rule. The theory is eventually the entire City will be developed to a schematic where there will be curbs and sidewalks. The standards are designed to benefit the city as a whole, including disposition of trees.

Vice Chairman Sattii advised there may be some disjunction. At 2:45pm, revised motions were sent to the Board, which make mention of Tree Warden and Tree Commission reports. These reports have not been submitted to the Board.

Mr. Steve Johnson, Assistant Public Works Director, and City Tree Warden, 83 Ford St, spoke. Existing trees were posted for possible removal as required by Tree Warden state statute, Chapter 451, for public shade trees. He does not have the Tree Commission report at hand but believes it is worth reviewing by the Board in respect to this plan. Report approves the 14 proposed replacement trees as good selections for this type of development. One recommendation is to move the trees from between the sidewalk and street to behind the sidewalk, to avoid tree health issues and conflict with sidewalks in the future. From the Public Works standpoint, the City has standards they hold developers to including street widening, sidewalks and curbs. He notes the

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Police Department also commented removal of the existing trees would help improve the sight line. He walked the street and at 2 points in the curve, you do have to be aware of oncoming traffic. He inventoried 18 plus trees; not all were in good health. 5 or 6 trees would need to come down under any circumstance due to health issues. The 3 large red oaks are 48-60 inches in diameter. Older oaks have issues which require ongoing attention for pruning due to decay and decline. Overall, those specific trees appear healthy. He does not like cutting trees down unnecessarily; the trees were posted because they have potential for removal by the developer. Along the curb line in front of lot 2, the sidewalk terminates at the end of the development at 146 Southworth Street. Without having done an arborist health assessment, the last two trees at the very edge, a hickory, and a red oak, could potentially remain. Terminating the sidewalk at the apron of the proposed house lot 3, which may allow a safe crossover to existing concrete sidewalk across the street, would allow these 2 mature trees, in apparent good health, to remain. Standards for protecting trees based on diameter at breast height should have a tree protection zone of 1 foot for every inch in diameter of the tree to avoid root compaction and decline of the tree. In fairness to the process the Board is adhering to for City standards, this tree review process is somewhat unique, but he is hopeful it is an opportunity to work collaboratively going forward. He and the Tree Commission would like to be involved earlier in the process and look forward to working with the board and on Planning and Zoning ordinances in terms of how we proceed to include trees as part of the natural resource review process.

Vice Chairman Satti asked for questions from the Board. Hearing none, he asked for opinion on closing the public hearing.

Mr. Mortimer would like to see and review the Tree Commission report.

Atty. Lynch asked **Mr. Johnson** whether he can make a full assessment of the trees by the July 5th hearing. **Mr. Johnson** confirmed he could. **Atty. Lynch** asked if **Mr. Johnson** can recommend the sidewalk termination on the northeasterly side of the lot 3 driveway. **Mr. Johnson** indicated **Mr. Saley**, Public Works Director, has the final say. **Mr. Johnson** offered to the Board that it may make sense to place the sidewalks on the eastern side of the road, which is outside the development parcel, subject to review.

Vice Chairman Satti stated the Board will continue the public hearing on July 5th.

- 2) **852 Boston Post Road** (Zone CDD-1) Petition of Thomas Lynch, Esq. for a Special Permit to construct a Mixed-Use Building on Map 77, Block 828, Parcel 6, of which 852 Post, LLC is the owner. **POSTPONED TO 7/5/22**
- 3) **Proposed Regulation Change #22-2** Petition of the Planning and Zoning Board Subcommittee for a change to Article IV, Section 4.1.1.4 and Section 11.2 Accessory Buildings to move regulatory language and allow a freestanding garage to be of minimum size.

Vice Chairman Satti asked **Mr. Harris** to provide background of this proposed amendment.

Mr. Harris explained the Zoning office has difficulty in some cases approving accessory garages because they can be no larger than 50% of the footprint of the principal structure. He provided the example of an 800-sf house being limited to a 400-sf accessory structure, which is smaller than a standard 2 car garage. The DPLU is looking to create something more flexible which would allow a relatively small house to construct a 2-car garage, without also allowing a very large house to construct an unreasonably large garage.

Vice Chairman Satti asked **Mr. Kaligian** and the other members of the Planning and Zoning Board subcommittee if this proposed amendment came through the Planning and Zoning Board Subcommittee. **Mr. Kaligian** does not recall that occurring.

Vice Chairman Satti then asked for board comment. Hearing none, he then invited the public to speak. No comment offered.

Vice Chairman Satti requested closure of the public hearing. **Mr. Zahariades** asked whether, regardless of the 50%, this is allowing an up to 600 sf accessory structure. **Mr. Harris** confirmed, stating a normal 2 car garage is 24'x24' or 576 sf. This amendment would capture those houses built long ago, which are undersized by today's standards, to allow construction of a 2-car garage. Lot size and building coverage do come into play under separate regulations based on zone. The larger the lot, the more building coverage can occur. A micro lot, 2500 sf, would have difficulty constructing a 2-car garage for those reasons.

Mr. Satti asked **Mr. Harris** for existing text of 4.1.1.4. **Mr. Harris** explained the 50 percent rule is embedded in the accessory building definition, which defines what an accessory building is and then brings into play the 50% of the principal building. He said we want to take that language out of the existing definition text and include it as Section 4.1.1.4.

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Mr. Griffith, DPLU Director, spoke. He said there is no Section 4.1.1.4 currently, so the regulatory language from the definition would instead be put into the regulations.

Vice Chairman Satti moved to close the hearing and asked for a motion.

Mr. Mortimer made a motion to close the public hearing.

Second: Ms. Austin seconded.

Vote: Motion carried unanimously.

Vice Chairman Satti has concerns regarding the text. Proposed text begins, "no structure or accessory building shall have a building footprint that exceeds 50% of the footprint of the principal building." Is there a state statute that may allow accessory use buildings in excess of 50%? Principal and accessory buildings are not defined in this proposed change. The arbitrary number of 600 SF may well affect the ability to allow other types of accessory use buildings. He referenced pending state legislation. He does not wish to rule on the proposal currently.

Vice Chairman Satti asked for Board comment.

Mr. Zahariades referenced state legislation regarding secondary living spaces.

Mr. Mortimer asked for clarification as to whether we were voting on opting out of the state law provisions. **Vice Chairman Satti** clarified there is not a vote on that at this time.

No motion was made to accept the proposed amendment. This will be continued to the next PZ Board meeting and is required to be voted upon by September 28, 2022.

4) **Proposed Moratorium #22-7** Petition of the Planning and Zoning Board for a change to Article V1, Section 6.4 Non-Conforming Lots, to examine the development of lots created prior to the adoption of subdivision on November 1, 1929.

Vice Chairman Satti asked **Mr. Harris** to explain the change.

Mr. Harris addressed the board. The Zoning Regulations previously had Sections 6.4.1 and 6.4.2 regarding nonconforming lots. Old Section 6.4.2 was the merger regulation, which was repealed by the Board in May 2021. Since that time, applicants are seeking certification of small, pre-subdivision lots. Without a merger rule, there are also proposals to take down existing houses located on 2 or more pre-subdivision lots to create 2 separate lots. This moratorium is designed to give the board time to reflect as to whether they wish to continue to allow pre-subdivision lots to be built on, or to reintroduce a merger section.

Vice Chairman Satti asked for board comment; none made.

Vice Chairman Satti asked for public comment.

Atty. Kevin Curseaden, 11 Bonsilene Street, spoke. His position does not support or object to the moratorium. He pointed out since Section 6.4.2 was repealed in May 2021, numerous builders and homeowners have purchased, or are in the process of purchasing, properties in response to this repeal. He asked the Board to consider the property value that now exists for these lots. Not all lots should be developed, but a significant number of people hold these lots of significant value, as the rule sits now, who will lose that value if the Board reinstates merger provisions. **Atty. Curseaden** submitted a memorandum to DPLU Director Griffith and staff late this afternoon, including recommendations on handling these lots in the future. CT Statute 8-26a covers subdivision approvals of record and subdivision maps that have been recorded, which protects lots that have not been built on yet. Lots prior to 1929 were never approved by any Board or Agency and thus are not protected by the CT statute. We could modify 8-26A to meet our needs. Does the board want these lots to be buildable? Could someone who has a house built over the property line demolish that home and now have 2 lots? The Board should decide whether they would apply current zoning regulations and setbacks to these old lots. Many old lots are very narrow. Consider whether a decision will lead to an influx of variance applications to the Zoning Board of Appeals. **Atty. Curseaden** shared his screen with the attendees, showing the memo. The Board may decide they do not want any of these lots to be built on, and to resume a merger provision. That provision required an applicant to prove the new lot would meet the current setbacks. He provided language for review. It would protect not only subdivision maps approved by the PZ Board, but also subdivision maps of record going back to the late 1800s or early 1900s. If the Board decides to allow the lots to be

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built upon, the Board could consider how creating another 50-75 single family homes would mesh with obligations to the State regarding affordability, increasing inventory and theoretically reducing the cost of buying or renting.

Vice Chairman Satti asked for other public comment.

Vice Chairman Satti asked for Board questions or concerns. Hearing none, he said the overall language concerns him and he believes we need to get more information from the DPLU office. **Mr. Griffith** clarified **Atty. Curseaden** brought up good points which are part of deliberation that may be considered during the 6-month moratorium. He clarified the requests coming in are for lot certifications. Zoning is in the process of continuing to certify lots, validating that if the lots existed on a pre-1929 map then they are existing lots. When we took the provisions of 6.4.2 out of the regulations, the rules went away as to how we allow the lots to be developed. The moratorium would allow us to examine and define how these pre-1929 lots are able to be developed.

Vice Chairman Satti said it might be valuable to know how many lots are being certified. A moratorium means no permits and he is concerned about that.

Vice Chairman Satti asked for comment from the Board. **Mr. Kader** advised he is concerned about people being caught during the moratorium, not being able to do anything.

Public hearing will remain open to the next meeting.

- 5) **1553 Boston Post Road** Petition of Jay Frank, Splash Car Wash, for a Special Permit with Lot Consolidation and Coastal Area Management survey to construct a car wash facility on Map 100, Block 805, Parcel 14A of which MWC Associates, LLC is the owner. **POSTPONED TO 7/5/22**

E. LIAISON REPORTS—None.

F. SUBCOMMITTEE REPORTS—None. **Vice Chairman Sattii** advised POCD Subcommittee meetings should be resuming shortly.

G. APPROVAL OF MINUTES—**5/3/2022** Minutes were approved.

H. CHAIR'S REPORT – None.

I. STAFF REPORT – **Joseph Griffith**, DPLU Director and Floodplain Manager – Hazard Mitigation Update. **Mr. Griffith** did not have his Flood Hazard Mitigation Presentation ready and requested to be put on another agenda.

Ms. Austin requested to discuss returning to in-person meetings in July. **Mr. Kaligian** said they are not wearing masks in federal court anymore and there is no reason not to go back. **Ms. Austin** made a motion for the July 19th meeting to be in person at City Hall. **Mr. Kaligian** seconded. **Mr. Kader** asked if anyone is aware of the current Covid numbers. When we decided to go back to Zoom the numbers were skyrocketing. He became very sick with Covid after 2 shots and booster; he is not sure about going back. **Ms. Austin** understands numbers, but **Mr. Kader** is welcome to wear a mask. **Ms. Austin** feels strongly that in person meetings need to happen. **Vice Chairman Satti** is concerned regarding the sound system in the City Hall because we cannot hear the speakers in person or on the MGAT recordings. **Ms. Austin** stated the Board of Aldermen and Zoning Board of Appeals have in person meetings with the current sound system in place as has the Planning and Zoning Board previously. **Mr. Castignoli** advised he can hear the speakers through Zoom far better than at City Hall. **Vice Chairman Satti** reiterated his request that the City fix the sound system.

Vice Chairman Satti moved to vote.

Discussion: See paragraph above.

Vote: Motion carried as follows:

VOTING WITH THE MOTION: N. Austin, B. Kaligian, R. Satti, M. Zahariades, B. Kaligian

VOTING AGAINST THE MOTION: J. Castignoli, J. Kader, J. Mortimer

K. ADJOURNMENT was at 8:26 pm.

Attest: S. LaFond

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.