

**MINUTES FOR THREE (3) PUBLIC HEARINGS
BY THE PLANNING AND ZONING BOARD
HELD TUESDAY, JULY 2, 2013; AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

The July 2, 2013 meeting of the Planning and Zoning Board was called to order by Chairman Mark Bender at 7:32 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

MEMBERS PRESENT: Ward Willis, Jeanne Cervin, John Grant, Edward Mead; (Vice Chairman), Dan Rindos, Michael Casey, Joseph DellaMonica, Tom Nichol, Mark Bender, Chairman.

Not Present: Benjamin Gettinger

STAFF: David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk

C. PUBLIC HEARING – Close by 8/6/2013; expires on 10/10/2013

1. **106 MERWIN AVENUE (ZONE R-7.5)** Petition of Susan Lussier for Special Exception and Coastal Area Management Site Plan Review approval to raise a pre-existing three family house out of the flood zone with regrading, on Map 59, Block 737, Parcel 13A, of which Nash Street, LLC is the owner.

Chairman Bender: At the last meeting there had been discussion concerning an error on the sign on the property. He went by the property and the sign reads correctly. He has photos of the sign.

Joseph Mager, Jr., Esq., Mager & Mager, 87 River Street, representing Nash Street LLC. Suzanne Lussier is the applicant. Via a displayed site plan Attorney Mager described the property with a three family structure on the lot built in approximately 1930. The lot is 38 feet wide by 200 feet deep. The property is bounded on the westerly side and the northerly side by Sandpiper Crescent Condominiums in an RMF-16 zone. The project being presented is for the renovation of the property that was damaged first during Storm Irene as well as Storm Sandy. The intent is to raise the structure above the flood plain to be in compliance with FEMA guidelines. The plan calls for the removal of two closed porches; one is at the front of the property facing Merwin Avenue. There is another porch to the rear of the property. There are four stoops serving the three units and there are three hatchways to a crawl space below which will be removed. Off-street parking will be underneath the raised structure. At the front and the rear of the structure, the plan calls for a raised patio area that will provide a passive recreational area for the occupants of the property, as well as dry ingress and egress where there is minimal flooding. Parking spaces in the rear will be retained. There is parking for three additional cars to the rear of the structure.

Attorney Mager referred to a drawing of the structure looking at it from the street and a rear view if it was to be viewed from the parking area to the rear of the structure.

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Sheet 11 shows the view of the property from the east side that faces away from the condominium complex. And a view facing the Sandpiper Crescent condominium.

The plan is not in any way to expand the structure. If anything, the structure will be reduced. Two porches will be removed. Additional parking will be created underneath the structure. By raising the structure future problems will be prevented with regard to flooding.

Attorney Mager concluded he thought this project is in harmony with the environment in the area. The property abuts the condominiums to the north and the westerly sides. There are numerous other multi-family structures down in the area. He thinks the Special Exception would be a benefit to the community. He stated the builder was present to answer any questions and the two members of the LLC, Suzanne Lussier and her nephew, Sean Wilson, the property owners.

Mr. Sulkis: Mr. Mager did a fine job representing the application. His administrative summary indicated any comments by City departments. The Tree Commission would like to see two trees planted if this is approved.

Chairman Bender: Asked what percentage of damage from the storms was sustained by the house.

Ms. Harrigan: Over 40% for Irene and the damage sustained by Sandy cumulatively put them over 50%.

Chairman Bender: Asked the proper name for the condominiums. Was it Sand Piper Crescent or Surf Village.

Attorney Mager: Stated he has seen it called both names on maps, but it is Surf Village.

Chairman Bender: How much of the existing structure will be used for this renovation.

Attorney Mager: The whole structure will be raised. Two porches will be removed. It is not less than 50% that will be raised.

Chairman Bender: The structure will remain it will just be raised.

Mr. Mead: Asked if the damage was repaired after Storm Irene?

Attorney Mager: Responded it had been repaired and new tenants were brought in. They stayed for seven months until Storm Sandy hit.

Mr. Mead: Asked what percentage was Storm Sandy?

Dan Bissonette, Contractor: 47.8 Irene and 58.2% from Sandy. The damage was fully repaired after the first storm.

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Chairman Bender: Asked about a statement referring to cellar type hatchways which access the existing crawl space beneath the entire structure and encroach upon adjacent property.

Attorney Mager: Referred to Sheet 2 which showed three hatchways that encroach onto the adjoining property. It is the applicant's plan to remove that encroachment.

Chairman Bender: Asked how the sweep of the cars under the structure was determined. Would it accommodate a pickup truck?

Mr. Bissonnette: It is made for a pickup truck to go underneath the building, even with a rack. He attested there was clearance for the vehicle to get around the pole.

Ms. Cervin: 2-bedrooms each in three units. 3 spaces for parking underneath and three spaces in the rear. Six parking spaces all together. Asked what the surface of the rear parking lot was.

Mr. Bissonnette: Stated the rear parking lot could hold 5-6 cars and the lot was crushed stone, not asphalt.

Ms. Cervin: Stated the number of parking spaces at 5-6 cars would have to be verified. Asked where additional parking would be for visitors.

Mr. Bissonnette: Thought the rear parking lot would be more than enough for four visitors.

Ms. Cervin: Asked what the surface underneath the carports was.

Mr. Bissonnette: It will be on crushed stone.

Chairman Bender: There is a pole that must be navigated to get into a parking space. Asked that the area be marked.

Mr. Bissonnette: Said that lighting could be put up or reflecting striping could be used.

Chairman Bender: Reflective striping would work.

Mr. Sulkis: The site plan shows six parking spaces, which is what they need.

Attorney Mager: The existing spaces are for three. There could be extras put in there, but there were three to begin with and that is what they are looking at.

Chairman Bender: Asked if all three units were rentals with no owner occupants.

Attorney Mager: Yes. All three units are rentals.

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Mr. Nichol: Asked if there was provision for handicapped access in view of the fact this was all rental units.

Attorney Mager: There is no provision for handicapped access.

The Chair opened the hearing to the public and explained the public speaking procedure. He asked if there was anyone to speak in favor of the application (No response). Asked if there was anyone to speak against the application.

Paul Hartman, 150 Sandpiper Crescent. This property backs up to 106. He has several concerns based on the narrowness of the lot. It is 38 feet wide. It already encroaches on his property line, even though there will be removal of the hatchway doors. He has concerns as to the ability of a vehicle parked underneath to make the swing within a 38 foot width parcel. The other concerns are flooding, which has been experienced in that area and are getting increasingly worse. This property backs up to the marsh which has been coming forward with more frequency. This results in a swampy condition which results in insects, etc. He asked how high the structure would be raised.

Sees a problem with population density. Of the 200 feet of the depth, the last 100 feet plus is marshland and dirt and that is where the extra parking will be. There will be a driveway and a building very close to the road. The passive play area that was described will be tiny. He asked that his concerns be taken under consideration by the Board.

Rebuttal by Applicant:

Attorney Mager: The size of the structure will not be increased, rather reducing the size. Not causing any further population density to the area. The property has been a three family house since 1930 and will remain as such. The encroachments will be removed from the adjoining property. The structure will be raised approximately 7-1/2 to 8 feet higher than it is; one story.

Rebuttal:

Mr. Hartman: In the effort to improve the area, even though the density is the same, would like to see the area improved. Many years ago there were rooming and boarding houses all over. When he moved there 20 years ago there were many multiple family dwellings and there are still several left. That is not commensurate with the improvement he would like to see in Milford.

Attorney Mager: Milford needs housing. It is an existing three family since 1930. Would like to keep it a three family.

Mr. DellaMonica: Where the bilco doors and crawl space is being eliminated, will it be filled in?

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Mr. Bissonnette: Yes. That area will be filled in and the crawl space will be eliminated.

Ms. Cervin: Asked if the two trees requested by the Tree Commission would be planted.

Attorney Mager: Yes.

Ms. Cervin: Asked how the soil erosion control reports will be managed?

Attorney Mager: Whatever the City requires this will be complied with.

Mr. Sulkis: Inland Wetlands Commission requires a weekly update on any construction on this site if it were to take place. It will most likely be inspected weekly by the Inland Wetlands officer.

Chairman Bender: Asked where the subject property line was in relation to the abutting Surf Village condominium.

Attorney Mager: Believed the property slopes off Surf Village down toward the subject property where there is a berm and a fence.

Chairman Bender: The fence is at the top of it, not the bottom.

Attorney Mager: Correct.

The Chair closed the public hearing.

2. **15-17 EDGEFIELD AVENUE (ZONE R-5)** Petition of Jay Alpert, Architect, for Special Permit and CAM Site Plan Review approval to renovate and expand the Hebrew Congregation of Woodmont on Map 59, Block 733, Parcel 8, of which the Hebrew Congregation of Woodmont is the owner.

Jay Alpert, One Bradley Road, Woodbridge, CT, Architect and agent for the Hebrew Congregation of Woodmont. - Waivers have been received from the ZBA for setbacks and parking and the application is now in full compliance with the regulations. The variances received were primarily for preexisting conditions. The plans and survey are straightforward. Two buildings are existing; a social hall and synagogue which is older and smaller of the two buildings. The side yard and front yards are mitigated with ZBA and DEEP.

The plan is to combine the two buildings with an entry hall, eliminating the two entrances and creating a single entrance in the center. Through this center hall people will either access the synagogue or the social hall. Now there will be two buildings combined under one roof.

An expansion of ten feet to the rear toward Gillette Street was attained to give some additional space. There is a site that terraces from Edgefield Ave. to Gillette with three

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levels to courtyards. First is an entry level; then an intermediate level which is the service courtyard and the upper level is a memorial courtyard. These will be attractive additions to the landscaping that is there right now.

Mr. Sulkis: The project is as presented. Everything they are doing is an improvement.

Chairman Bender: Asked if the application was for the addition portion, not the rehabing of the structures.

Mr. Sulkis: Because it is a Special Permit use and it predates the zoning, the fact that they are expanding 879 SF, that is what triggers the Special Permit. It is also in a CAM zone, so everything they are doing is within the CAM zone. They are also flood compliant which they weren't before.

Ms. Cervin: The Tree Commission would like two trees. Will those be added?

Mr. Alpert: Yes. He will determine the species and location for the trees.

Mr. DellaMonica: Asked if improvements will be made to the two existing buildings.

Mr. Alpert: Yes. Both buildings will be brought up to code and winterized. Previously the buildings were used as summer facilities up on piers. The exterior will be refurbished with two thoughts: One is to create a sense of memory in deference to the history of what was there, because it has such an historical importance to the congregation, and the other is to bring it into this century and the future by upgrading it to a more permanent stucco-kind of exterior.

Mr. DellaMonica: In his past profession as a policeman he knows of incidents of vandalism on this property. Will there be more lighting to ward off such dangers in the future? At this time the buildings are set back off the roadway and are not well lit.

Joel Levitz, 44 Point Beach Drive, President of the synagogue for eight years. During his tenure as president he does not recall defacing of the buildings. There will be extensive lighting and a security system in place.

Chairman Bender opened the hearing to the public. Anyone in favor of the application? (No response) Anyone in opposition to the application? (No response)
The Chair closed the public hearing.

Ms. Cervin: Made a motion for approval of the petition of Jay Alpert, Architect, for Special Permit and CAM Site Plan Review approval to renovate and expand the Hebrew Congregation of Woodmont on Map 59, Block 733, Parcel 8, of which the Hebrew Congregation of Woodmont is the owner.

Mr. Willis: Second.

All members voted in favor.

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1. **1613 NEW HAVEN AVENUE (ZONE R-12.5)** Petition of Thomas Lynch, Esq., for approval to create a two lot subdivision on Map 82, Block 791, Parcel 7A, of which Seaview Cove, LLC is the owner.

Thomas Lynch, Esq., Lynch, Trembicki and Boynton, 63 Cherry Street, Milford, He introduced his client, the property owner, Charles Gagliardi and Ronald Wassmer, CCG Civil Group, the project engineer. He is presenting an application for a two-lot resubdivision of a property located at 1613 New Haven Avenue. The property is located in an R-12.5 zone. The application that is being presented is seeking to divide the property in order to construct two single family residences.

He noted that Mr. Sulkis submitted memo to the Board that recommended denial of the application. It is his intention to point out the reasons he disagrees with Mr. Sulkis.

This property is located on the outskirts of Milford, in Woodmont, near the West Haven town line. He showed a zoning overlay map that Woodmont was developed in the 1920's and '30s. It was beach cottages with larger homes along the shoreline. As a result, as shown on the overlay, the site is located just north of New Haven Avenue and Anderson Avenue, adjacent to one other large property with a large Victorian house on the corner of Anderson and New Haven Avenue. The R-12.5 zone classification basically extends the shoreline all throughout Woodmont and the zone classifications of all the other areas of Woodmont are either R-7.5 or R-5. This property in its current condition consists of some 18,600 SF and is an oversized parcel in the R-12.5 zone.

He is making the request for a waiver pursuant to Section 6.4 of the Subdivision Regulations to have the subdivision be permitted to allow two lots that are slightly under sized from the R-12.5 classification, but clearly oversized in relation to the zone classifications of all the other non waterfront parcels in Woodmont. The overlay shows up and down New Haven Avenue and the interior sections of Woodmont where all the zone classifications have residences that are built on 5,000 to 7000 SF lots, all throughout where New Haven Avenue comes down to the curve, just south of Dunbar and Wall Street and then into the interior areas; Hawley Avenue, Clinton Avenue, Howe, and all the residences that are non waterfront properties. It is clear on the displayed map overlay that the R-12.5 zone runs along the shoreline with the larger homes, but the vast majority of the other homes are all constructed and the zone classifications there are R-7.5 and R-5.

Mr. Lynch referred to the handout he gave to the Board wherein it showed that the applicant's site actually borders the R-7.5 zone and then across New Haven Avenue, which is a State highway, clearly able to handle the division of this property with just one additional single family residence. All of the homes across the street are in zone classification R-7.5 and all of the areas south of Anderson Avenue in the interior of Woodmont are constructed on lots that are 5,000 SF lots.

Mr. Sulkis in his memo referred to a letter he had written in December 2012, calling this spot zoning. Mr. Lynch disagrees with this statement. Spot zoning would be if he came

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in with a client who wants to build a multi-family development on this property. He indicated spot zoning as being the Beachcomber Café stuck in the middle of Melba Street; Speedy Mart located on the corner of Meadowside Road and Robert Treat Parkway. Those are uses that are out of character with the area. This is not spot zoning. He could see if the point was made to adhere strictly to the zoning regulations. Contra to the argument that there should be a strict adherence to the zoning regulations as it applies to the two proposed lots, he submits through the evidence he has shown, that a 9,400 SF lot and a 9,100 SF lot in this area is clearly consistent and is not spot zoning. It creates a situation where these two lots are in conformity with the other zones in close proximity to this site.

He disagrees with the position Mr. Sulkis has taken on this and based upon the location of this property, its proximity to the other zones and the fact that it is adjacent to the R-7.5 zone, the two 9500 SF lots are in conformity with the area.

The main issue associated with this application is a waiver is being sought of the lot area requirement under the zoning regulations. The lots are also 45 feet wide. The requirement in the R-12.5 zone is for 80 foot wide lots, but because of the configuration of the lot, the lot depth on each of these lots is 170 feet, where only 120 feet is required. His argument is although the lots are a little bit narrower, they are deeper. They are 50 feet deeper than what the zoning regulations require, so that offsets the narrowness of the lot.

Ron Wassmer, PE, LLS, 158 Research Drive, Milford CT, representing the applicant Seaview Cove LLC. Mr. Wassmer explained each sheet of the set of plans for the two lot subdivision. It is a flat lot with no engineering concerns. There is an existing house on the property. The subdivision plan outlines each individual lot with its areas and various dimensions. The lots are 45 feet wide at the street frontage and 59 feet wide in the rear. The existing house will be razed as part of the application. Sheet No. 4 is the Zoning Layout Plan which is similar to the subdivision. It shows the various setbacks and lot dimensions and two proposed houses and driveways. There is a table in the lower left corner that outlines the bulk zoning standards of the individual lots as well as the complete parcel. Sheet 5 is a busy plan that shows the overall plan of development. It is used to show everything that will be happening on the property, such as; the houses; the trees to be removed and the trees to remain; grading, utilities, driveways, etc. He reviewed the remaining standard engineering plans, including a landscaping plan which showed the trees to be removed as well as the trees that will remain.

He summarized that from an engineering aspect there are no challenges on this site.

Mr. Lynch: The Board has received photos of the existing house which has been vacant for over seven years. It is an eyesore in the area and the construction of two new houses would be welcome by the neighbors. He asked the Board to put on their planning hats and consider this application with a waiver for a slightly smaller lot that will involve the demolition of an “eye sore”; the construction of two new colonial Nantucket style homes, which Mr. Gagliardi is proposing, and to see in this case a strict adherence

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to the zoning may not necessarily serve the betterment of the community; that allowing this application will in fact improve the area.

Mr. Sulkis: Thanked Mr. Lynch for laying things out including his report, which he will not address because it speaks for itself. He is glad Mr. Lynch brought up the fact that the Board should put on their planning hats. The Plan of Conservation and Development has just been completed. In that process no changes were identified for the area in question in terms of zoning, density, yet the applicant is asking for such. He thanked the applicant for handing out Section 6.4 on variances. The number one thing it talks about are special circumstances and conditions. This site has no special circumstances or conditions. What it has is an applicant who desires to put two houses where the regulations say there should only be one and it perfectly conforms today as a one family lot.

Furthermore, it is nice that they want to replace a dilapidated house that has been vacant for seven years. Why is it dilapidated? Why has it been vacant. That appears to be the choice of the property owner, which is fine. But just because something new is going to replace something old, does not mean that it is better and does not mean that it is right.

The fact that there is no one present to testify for or against it does not mean anything. As the Board is aware, in a typical variance situation, neighbors are notified individually. With the Planning and Zoning Board, neighbors are not notified individually. It should be taken with a grain of salt as to whether neighbors are here or not here, and in this case, they are not here, whether or not they really care what is going on.

The bottom line is: There is nothing here that is special. The property can be used in compliance with the zoning regulations and that is what this is all about. The Board has had other applications that have asked for [significantly] smaller variances than this that this Board has not approved. He would expect the Board to follow its own regulations and not grant what in essence is a desire. There is no substantial need and that is what this is.

Ms. Cervin: Asked if the large lot next door to the property in question in the R-12.5 zone? Mr. Lynch had said all the large houses facing the water were in the R-12.5 zone.

Mr. Lynch: Thought he said the large Victorian house on the corner of New Haven and Anderson Avenue is the only one that is not.

Ms. Cervin: Asked why Mr. Lynch thought it was a positive thing to have two houses instead one house on that lot in that neighborhood.

Mr. Lynch: Looking at the big picture, he would think that this plan with two new houses would be preferred, if he lived in the neighborhood.

With regard to Mr. Sulkis' comment about Section 6.4 about variances or waivers, that is why the section is in the Subdivision Regulations. To look at each application on its

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own merits. He does not think this proposal has anything to do with the Plan of Development. It has everything to do with an individual application where a waiver of the lot square footage to allow for an improvement to the property.

Ms. Cervin: The Board is in the business of creating more density in neighborhoods. She thinks there may be more than two choices: Either as it is or a split lot. She thinks a new one-family home is a third choice.

Mr. Lynch: This is over a half acre. The applicant can come in with a lot of choices, such as an 8-30g application, but this is the preferred one.

Chairman Bender: Was a zone line change considered?

Mr. Lynch: It was considered, but if he felt the subdivision was the more efficient way of doing it. He does not think it is a major downsize from the R-12.5. The lots in terms of their square footage would be close to 80% of what the zoning would allow in that zone.

Chairman Bender: Agreed that going from one house to two houses increases density.

Mr. Lynch: In the overall scheme of the neighborhood, one house does not increase the density of the neighborhood.

Mr. Mead: Asked if the neighbors were in favor of the application, why did they not come to speak at the public hearing.

Mr. Lynch: He asked the applicant. But there is no one to speak against the project.

Chairman Bender: Without a posting, for or against, it is difficult for the public to know what is proposed.

Mr. Lynch: This was brought up to the Board of Wardens of Woodmont. He was asked to submit plans to the Board of Wardens, which he did and the Board said they had no position on the application.

Mr. Nichol: Route 162 and Rosemary Court. Was it always R-7.5?

Mr. Lynch: Knows the house at the end of Rosemary Court. It is on approximately 1.5 acres and built before the turn of the century. When the zoning regulations went into effect in 1930 the R-12.5 classification was set up to legitimize the size of that property, as it is clearly an oversized property.

Mr. DellaMonica: Stated the 20-25% lot reduction size per unit was very significant and if this was an 8-30g application this argument would be moot. Unless there is a safety issue with an 8-30g application, the Board does not have much to argue about. This is about reducing the size of the lot by 20-25%

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Mr. Lynch: The reduction is done just to make it conform to the area.

Mr. DellaMonica: Without a waiver there would have to be a zone change.

Mr. Lynch: That is why they are asking for the waiver.

The Chair opened the hearing to the public. Asked if anyone was in favor of the application (No response). Asked if anyone wished to speak against the application (no response).

The public hearing was closed.

E. NEW BUSINESS

2. **54 WILSON STREET SUBDIVISION – BOND RETURN** – Request by Gregory Field for partial return of a subdivision bond, approved by Bruce C. Kolwicz, Director of Public Works, in his memo dated June 18, 2013.

Chairman Bender: Subdivision bond amount to be returned to BAMF Homes is \$14,878.00, with a maintenance bond balance of \$862.00 to be held for one year.

Mr. Grant: Motion to approve.

Mr. Willis: Second.

All members voted in favor of approval.

F. REGULATION CHANGES – Update - Rear Lots

Mr. Sulkis: Had a discussion with Debra Kelly. He and she will have a meeting on the rear lots, hopefully, next week.

Chairman Bender: Asked if the proposed regulation changes would be on the July 11, 2013 agenda of the SCCRCG meeting.

Mr. Sulkis: Yes, however, the regulation changes will not be ready for a public hearing until August.

Chairman Bender: The Regulation Subcommittee will reconvene in September.

G. LIAISON REPORTS - None

H. APPROVAL OF MINUTES – (6/18/2013)

Mr. Rindos: Made a motion to approve.

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Mr. Mead: Second.

All members voted in favor of approval of the minutes of 6/18/2013.

I. CHAIR'S REPORT - None

J. STAFF REPORT

Mr. Sulkis: Announced that Emmeline Harrigan has passed the test to become a Certified Flood Plain Manager of which there are 14 in the State.

Ms. Cervin: Asked how this position impacts the City, the Board, etc.

Ms. Harrigan: The City participates in the Community Rating System which is part of the National Flood Insurance Program. Through that participating it can help reduce the overall premium cost for all the residents who have flood insurance. Right now the residents experience a 5% premium discount. Having some flood plain managers helps the City acquire points to further that reduction.

Mr. Mead: Motion to adjourn.

Mr. Casey: Second.

The meeting adjourned at 8:57 p.m. The next meeting will be held on July 16, 2013.

Phyllis Leggett
Phyllis Leggett, Board Clerk