

PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 5 JULY 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, E. Hirsch, J. Kader, B. Kaligian, J. Mortimer, J. Quish, R. Satti, M. Zahariades

**Not Present:** C.S. Moore

**Staff:** D. Sulkis, City Planner; M. Greene, Rec. Sec'y

**Chairman Quish** opened the meeting and announced that Item 5 was tabled until August at the request of the applicant.

**C. NEW BUSINESS—None**

**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)

**Chairman Quish** noted that the item had been continued from the previous meeting. **Mr. Sulkis** said the applicant had met with Tree Warden/Assistant Director of Public Works Steve Johnson and City Engineer Greg Pidlusky to negotiate a change that would satisfy the Tree Commission. **Attorney Lynch** described a compromise meant to satisfy parties who wished to maintain trees on the site while also satisfying the requirement to widen the road. He said the Tree Warden/Assistant Public Works Director agreed that 2 large trees on the southern side of Lot 3 will be preserved by making an adjustment to the sidewalk. He said the site plan's landscaping sheet had been updated such that several trees will be moved 10 feet back from the street line and into the front yards of the new homes. He reported that Sergeant Kranyak from Milford PD's Traffic Division said the trees would not impact traffic sight lines. **Steven Johnson** said Attorney Lynch had summarized the meeting well, noting the modified site plan protects 8 existing mature trees in addition to added trees. He listed the trees to be saved and one that may need a follow-up assessment. He said the discussions with the developers met the requirements of the Tree Commission and will help replace some of the canopy that will be lost. He said he appreciated the flexibility and support of the developers.

**Chairman Quish** asked for public comment.

FAVOR

**Patricia Houser**, 6 Westland, thanked the board for its responsiveness to concerns about old growth trees. She said the loss of trees creates problems with ground water and carbon dioxide absorption.

**Therese Eke**, 47 Point Beach Drive, thanked the board as well.

*[Dennis OGrady, 59 Grand Street asked about town hall meetings; he was advised that the next meeting is in person.]*

*[Sara Bromley, 27 Norway Street, asked if comment was confined to the application; she was advised that it is.]*

DISCUSSION

**Mr. Mortimer moved to approve with the following modifications** the Petition of Thomas Lynch, Esq. for a three-lot subdivision on Map 074, Block 934, Parcel 17, of which GAMS, LLC is the owner.

**Conditions:**

1. The applicant will install a combination curb and sidewalk terminating opposite the existing walk on Southworth Street. The limit and location of the sidewalk will be per the direction of the City of Milford Department of Public Works.
2. The applicant will install street trees ten behind the street line onto subdivision lots. The exact locations and species to be approved by the City Planner.
3. Conditions specified in the memorandum from Tree Warden Steven Johnson will be satisfied.

**Second: Mr. Castignoli** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously.

- 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.

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**Attorney Lynch** addressed the board. He said that the property was an 1/8 of an acre of land situated on the northern side of the Boston Post Road. He said the house was demolished after being purchased and the proposed project was for a new mixed use, 1980 sf building with a garage on the lower level, a first-floor commercial salon space, and 1 2-bedroom apartment on the 2nd floor. He said parking would feature 6 spaces in the lot and 2 in the garage. He reviewed details of the colonial design, which features lift-based handicap access because a ramp would not fit. He said the sewer commission had reviewed approved the project due to new water usage and that approval was also given by the Police Commission. He said the Fire Marshall's office had not been able to review the plan in time for the meeting, but he suggested that such approval be made a condition of approval. He said the plan also satisfied the City Engineer.

**Ron Wassmer**, PE, LS, 158 Research Drive, said state approvals would also be required as the Post Road is a state thoroughfare. He offered to provide more detail or answer questions.

### DISCUSSION

**Mr. Castignoli** asked about the garage access. **Attorney Lynch** answered that the driveway passes through the parking spaces. **Mr. Zahariades** was assured that no cars would have to back onto the Post Road.

**Mr. Sulkis** provided his administrative summary, which was consistent with the presentation, saying that the application was substantially zoning compliant.

**Mr. Satti** and **Attorney Lynch** discussed the application's timeline.

**Chairman Quish** asked for public comment. Hearing none, he closed the hearing and asked for a motion.

**Mr. Satti** praised the application, saying he had wanted to be sure that no undue delays were involved in the application process. **Mr. Sulkis** advised that while he provides feedback on applications, the applicant is under no obligation to respond to feedback from the office.

**Mr. Kader** asked if any environmentally helpful features could be added; **Mr. Sulkis** advised that any conditions applied must be based on the regulations. **Chairman Quish** said he thought new legislation from the state empowers boards to address environmental concerns and that he anticipated that some clearer direction on the topic would soon be available. **Attorney Lynch** pointed out a row of trees to be added along the border of the lot. **Mr. Mortimer** said he was pleased with that aspect of the plan.

**Mr. Mortimer** *moved to approve with the following modifications* the 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.

**Condition:** The plans will be reviewed and approved by the Fire Marshall.

**Second:** **Mr. Castignoli** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously.

- 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.

**Chairman Quish** and **Mr. Sulkis** reviewed the Subcommittee's 2021 proposed, with Mr. Sulkis providing meeting minutes to document when the change was discussed. He summarized the proposed change, noting that the original intent of the regulation was to prevent accessory structures being larger than the principal structures on the lot. He said an unintended consequence was that some homeowners who might otherwise have enough land to build a usable garage would be restricted by this regulation. He said much of Milford's housing stock was built after World War II and featured a small footprint. **Mr. Hirsch** asked how the proposed size of a 600 sf measurement comes from; **Mr. Griffith** said a standard 24x24 garage has approximately that footprint. Discussion ensued on standard garage spaces. **Mr. Hirsch** thought 600 sf was excessive.

**Chairman Quish** asked for public comment.

**Charles Montalbano**, 30 Revere Pl, asked if the structure could only be a garage. **Mr. Sulkis** said it could be any accessory structure permitted by the regulations. **Mr. Griffith** added that the structure could not be a warehouse or a separate dwelling unit.

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**Therese Eke**, 47 Point Beach, was advised that accessory apartments cannot be housed in detached structures.

### DISCUSSION

**Mr. Hirsch** asked if utilities could be installed in the accessory structure and was advised that a kitchen cannot be added, as it would make it a separate dwelling unit. **Mr. Satti** read portions of the regulations about accessory apartments, saying that they are sufficiently restrictive to prevent misuse. He urged the board gain a better understanding of new state statutes before moving ahead on this regulation change.

**Mr. Mortimer moved to approve as presented** the 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. **Effective Date: 7/15/22**

**Second: Mr. Castignoli** seconded.

**Discussion:** None.

**Vote:** Motion carried 5-4

**WITH THE MOTION: Mr. Castignoli, Mr. Kader, Mr. Kaligian, Mr. Mortimer, Mr. Quish**

**VOTED AGAINST THE MOTION: Ms. Austin, Mr. Hirsch, Mr. Satti, Mr. Zahariades**

- 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.

**Mr. Sulkis** said that since the 6.4.2 merger regulation had been abandoned, unintended consequences had arisen. He said that in 1929, the state required towns to create subdivision regulations, but prior to that, land could be divided without standards. He said there are still pre-1929 lots in town that can be certified, though they are often so small that variances are required. He said the intent of abandoning the merger regulation was to allow development of open lots, but now houses on merged lots are being demolished with the plan of certifying them as multiple, original, small, lots. He noted that these lots are often in flood zones. **Mr. Satti** said that before considering the change, he would prefer to have additional information about the number of lots being considered and the number of applications being submitted.

**Chairman Quish** asked for public comment.

**Donna Dutko**, 236 Buckingham Avenue, asked for clarification of the moratorium language as it related to vacant lots versus accessory structures. **Chairman Quish** reviewed the original intent to undo harms to homeowners caused by restricting development of lot simply because some accessory structure had merged it with another lot. **Mr. Hirsch** asked if moratorium was legal as they relate to property sales, and **Mr. Sulkis** advised that moratoriums don't affect transfer of property and provided historical context. **Chairman Quish** said there would be comments accepted at a future public hearing on the rewritten text.

**Kevin Curseaden**, offices at 3 Lafayette Street, residence at 11 Bonsilene Street, said he understood Mr. Hirsch's question about property rights. He said he also understood the board wanting to allow people to build wealth with adjacent lots, but he had seen that developers are buying properties from existing homeowners to revert them into the original lots. He said that the old Section 6.4.2 merger language was not well written, being based on intent, which is hard to prove. He agreed that 6.4.2 should be replaced but suggested that the existing state statute 8-26a may be useful when rewriting the merger regulation.

**Mr. Griffith** shared a screen with a sample of developer lots on a 1918 map where each lot is 30' wide and to illustrate the challenge of developing such lots.

**Mr. Satti** asked how the application process would work if the small, reverted lots were presented for development. **Mr. Sulkis** said that if a lot never had any structure on it and was unmerged, the application would require a lot certification. **Chairman Quish** said most lots would probably need variance from today's setback requirements. **Mr. Satti** asked about grandfathering of setbacks, **Mr. Sulkis** said that if the applicant had a legal subdivision done after 1929 that it doesn't meet today's setbacks, the owner could build according to the standards for subdivisions at that time. **Mr. Mortimer** asked if the number of applications for lot certification has increased significantly; **Mr. Sulkis** said it had. He discussed variation on recombining the small lots.

**Chairman Quish** closed the hearing and asked for a motion.

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**Mr. Mortimer moved to approve as presented** the Petition of the Planning and Zoning Board for a change to Article VI, Section 6.4 Non-Conforming Lots, to examine the development of lots created prior to the adoption of subdivision on November 1, 1929.

**Effective Date: 7/15/22**

**Second: Mr. Castignoli** seconded.

**Discussion: Mr. Hirsch** said he felt there should be an end date. **Chairman Quish** asked **Mr. Sulkis** to review the timetable for adopting a new regulation. He said a 6-month time frame was reasonable. Mr. Sulkis confirmed for Mr. Hirsch that numerous applications are already coming in. **Mr. Satti** suggested that the motion be amended to reflect an end date of 11/30/22 but still said he would oppose the motion.

**Vote:** Motion carried.

**WITH THE MOTION: Ms. Austin, Mr. Castignoli, Mr. Kader, Mr. Kaligian, Mr. Mortimer, Mr. Quish, Mr. Zahariades**

**VOTED AGAINST THE MOTION: Mr. Hirsch, Mr. Satti**

**CLOSE BY AUGUST 9, 2022; VOTE BY OCTOBER 13, 2022**

- 5) **Proposed Regulation Change 22-4** Petition of Kevin Curseaden, Esq. for a change to Article VII, Sections 7.1.1.1, 7.1.1.2, and 7.1.1.3 to change Site Plan Review Procedures. **POSTPONED BY APPLICANT**
- 6) **Accessory Apartments/ADUs/Accessory Dwelling Units** To opt-out of the default state law provisions that allow construction of accessory apartments (also known as ADUs or accessory dwelling units) on lots accompanying single-family homes and that place limits on other conditions of approval, contained in Section 6 of Public Act 21-29 (An Act Concerning the Zoning Enabling Act, Accessory Apartments, etc.), in accordance with the opt-out procedure contained in Section 6(f) of PA-21-29.

**Mr. Sulkis** provided an overview of the state law as it appeared in his admin summary. He reviewed the statute and listed 3 choices the board could make. 1.) Inaction would render the Milford Accessory Apartment regulations null and void to the extent that they conflict with the statute. 2) The existing regulations could be amended by the board to make them consistent with the statute with additional limits on size and use, including specifying the location of an accessory apartment on the site and restricting use of short-term rentals. 3.) The board can opt out of adopting the statute, keep the current regulations in place, and change the term "Accessory Apartment" so as not to conflict with statutory language. Mr. Sulkis provided a summary of the new statute that he had previously written.

**Chairman Quish** asked Mr. Sulkis to articulate the goal of the new statute; **Mr. Sulkis** said the goal is to create more housing in the state. **Mr. Hirsch** said he believed there was also a consideration of extended family members.

**Chairman Quish** asked for public comment.

### FAVOR

**Prasad Satavalli**, 48 Robert Treat Drive, on behalf of "All in for Milford," read a statement. He said he supported the adoption of the statute to create Accessory Dwelling Units to address Milford's housing crisis, which allows rent to be charged to a non-relative.

**Therese Eke**, 47 Point Beach Road, agreed with the previous comments. She referenced her 2 grown children who wish to live in Milford—their hometown, but noting that although both work full time, neither can afford to live here.

**Charles Montalbano**, 30 Revere Place, also agreed with the previous comments wanting to provide a new affordable option.

**Sarah Bromley**, 27 Norway Street, said she has a daughter who is 23 and can't afford to move out of her (Ms. Bromley's) home. She said she would prefer to have her own elderly mother living there but it is not feasible due to the daughter's inability to find housing elsewhere.

**Donna Dutko**, 236 Buckingham Avenue, asked whether opting out of ADUs will help support the Affordable Housing Plan.

**Chairman Quish** said he will ask Mr. Sulkis this question at a later date.

Seeing no requests for more public comment, **Chairman Quish** closed the hearing and repeated Ms. Dutko's question.

**Mr. Sulkis** said Milford has the advantage of existing Accessory Apartment regulations and further, Milford's regulations are more restrictive than those created by the legislature. **Mr. Satti** said he thought that the Regulation Change 22-2 vote precluded action on this issue and that he had concerns about opting out and granting ADU permits as of right. **Mr. Mortimer** said he doesn't see

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how the change to Regulation Change 22-2 affects this question. **Mr. Satti** said his concern was about the clause of “no building.” **Chairman Quish** said state law supersedes local zoning and noted that the board can craft additional language about short-term rentals. **Mr. Mortimer** said he was inclined to allow detached ADUs but might have missed something. **Chairman Quish** said the prior vote regarded Accessory Structures, not dwelling units. He said the state-proposed regulation allows accessory dwelling units to be detached and to allow tenants in those units to be persons other than relatives. **Mr. Zahariades** and **Chairman Quish** discussed the need to change Accessory Apartment regulations with Chairman Quish noting the goal of increasing available housing in Connecticut. **Mr. Castignoli** asked for clarification on separate dwelling units under the state statute, which Chairman Quish provided. **Mr. Hirsch, Chairman Quish,** and **Mr. Sulkis** discussed whether and what the board can pick and choose from portions of the statute to adopt. **Mr. Zahariades** said the change would convert single family zones into multi-family zones. **Mr. Castignoli** and **Mr. Sulkis** discussed the creation of standards for the regulations if the city did not opt out. **Mr. Kaligian** suggested opting out of the statute and addressing needs on an individual basis. **Mr. Kader** agreed that opting out seems appealing but wanted to revisit existing regulations. **Chairman Quish** said the board could restrict where structure is on the lot in terms of setbacks and lot coverage such that it would be very prohibitive to add a second dwelling on a small lot. **Mr. Griffith** said that if board opts out, Milford’s terminology for accessory apartment regulations would have to be redefined. **Mr. Sulkis** agreed and added that if the current regulations are too restrictive, they can be changed; he compared the portion of the regulations that deal with Accessory Apartments to a checklist. **Mr. Kader** asked if the city would have more control by opting out; **Mr. Zahariades** and **Mr. Sulkis** agreed that was the case. **Mr. Castignoli** said he can’t support the issue due to how it could change the character of his and other neighborhoods. **Mr. Satti** said he favored inclusivity and the need for more housing, but worried about how the change would affect neighborhoods. He suggested sending the issue to the Regulation Subcommittee for further deliberation. **Mr. Hirsch** expressed concern about property values. **Mr. Castignoli** said it would be beneficial to move the issue to the Regulation Subcommittee. He felt the additional dwelling unit should be attached even if there weren’t a blood relative living in it. **Mr. Sulkis** said the only deadline is 1/1/23 for opting out, which seemed to be the direction of the discussion. There was discussion of the possible outcomes of the vote given the requirement for a 2/3 majority approval. **Chairman Quish** said that, without objection, the matter would be referred to the Regulation Subcommittee with a 30-day deadline for a response.

**E. LIAISON REPORTS**—None.

**F. SUBCOMMITTEE REPORTS**— **Chairman Quish** said that a draft POCD will be submitted soon.

**G. APPROVAL OF MINUTES**—6/21/2022 minutes were approved with **Chairman Quish** recused.

**H. CHAIR’S REPORT** – **Mr. Satti** asked to confirm that live meetings would resume on July 19. There was discussion of the poor quality of the public address system is very hard to understand. **Mr. Mortimer** added that he found Zoom are better attended. **Ms. Austin** asked if any changes had been made to the PA system to cause the degradation in sound and said she felt the Zoom meetings were not as well run. **Mr. Mortimer** said the pandemic had change the way business was done. **Mr. Mortimer** motioned to maintain Zoom meetings with a second from **Mr. Castignoli**.

**WITH THE MOTION: Mr. Castignoli, Mr. Mortimer, Mr. Quish**

**VOTED AGAINST THE MOTION: Ms. Austin, Mr. Hirsch, Mr. Kader, Mr. Kaligian, Mr. Satti, Mr. Zahariades**

Chairman Quish confirmed that the vote switched the next 2 meetings back to “in person.” **Mr. Kader** said he can’t see the presentation and asked that applicants stand closer to the dais.

**J. STAFF REPORT** – Joseph Griffith, Floodplain Administrator for the City of Milford, presented the Hazard Mitigation Committee’s report on the city’s hazard mitigation plan. He said the plan covered steps Milford residents can take to mitigate loss of life and flood damage during natural disasters, such as turning back when walking or driving toward floodwaters. He noted that 25% of property in Milford is in a flood zone. He said the Hazard Mitigation Committee is now involved in a multijurisdictional effort with 13 other towns. He said annual review of implementation will be conducted.

**K. ADJOURNMENT** was at 10:04.

Attest:

M.E. Greene

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.