

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JULY 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the July 7, 2009 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Frank Goodrich, Mark Bender, Janet Golden, Kim Rose, Kevin Liddy, Susan Shaw, Gregory Vetter, Victor Ferrante, Jeanne Cervin, Chair.

Not Present: KathyLynn Patterson

Staff: David Sulkis, City Planner, Emmeline Harrigan, Assistant City Planner, Phyllis Leggett, Board Clerk.

C. NEW BUSINESS

1. **625 Bridgeport Avenue (ZONE CDD-3)** Petition of Gennaro Barbieri on behalf of the Knights of Columbus, for a Site Plan Review to conduct a carnival on Map 25, Block 209, Parcel 1, of which the Knights of Columbus, Milford, is the owner.

Mr. Vetter: Recused himself as a member of the Knights of Columbus council.

Gennaro Barbieri, 10 Oak Ridge Lane, Milford. Chairman of the Carnival Committee of the Knights of Columbus located at 625 Bridgeport Avenue. Requesting the Board's approval to conduct a carnival on the Knights of Columbus grounds at that location. Carnival will be held on August 20, 21, 22 and 23, Thursday, Friday, Saturday from the hours of 6:00 to 11:00 p.m. and Sunday from 12:00 to 6:00 p.m. Last year the Board granted permission to hold the K of C carnival at Christ the Redeemer Church. This year they would like to hold the event on their own premises. The proceeds from this event will go toward Project Moses which places monuments in churches and synagogues in the City.

Mme. Chair: Noted the Police Report's request that a police officer be hired to be present at the site and the Fire Department asked that no rides obstruct the ingress and egress to the building.

Mr. Barbieri: Contacting the police and fire departments upon approval from the Board has been their practice. Compliance with these departments will be continued this year.

The Board discussed the proposed night hours of the carnival and the control of parking in the nearby residential area of Twin Oaks Terrace, which is a no parking area.

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Mr. Liddy: Moved to approve the Site Plan Review application of the Knights of Columbus to hold a carnival on their premises at 625 Bridgeport Avenue as described in the Statement of Use.

Mr. Goodrich: Second.

Ms. Shaw: Stated she felt there are parking issues and nearby neighbors who should be considered with regard to parking and the 11:00 carnival hours.

Ms. Shaw asked for an amendment to the motion that the carnival stay open until ten o'clock on Thursday and Friday, and on Saturday a little later.

Mr. Gennaro: In previous years the carnival was held at 625 Bridgeport Avenue and there was never a problem.

Mme. Chair: Asked if there was a second to the amendment.

There was no second to the amendment. The amendment was not considered.

A vote was taken on the main motion.

All members voted in favor. The motion passed unanimously.

2. **23 SILVER STREET (ZONE R-5)** Petition of Gary and Diana Cirillo for a Coastal Area Management Site Plan Review to construct a single family residence on Map 27, Block 453, Parcel 22, of which Michael Tarantino is the owner.

Gary Cirillo, Shelton, Connecticut, proposing to build a single family home at 23 Silver Street. Seeking approval of the Coastal Area Management Site Plan Review.

Mme.Chair: Asked Ms. Harrigan for her comments.

Ms. Harrigan: Stated she and the DEP have spent a lot of time reviewing the application. They did some follow-up review with Inland Wetlands. There was concern at one point that there was tidal influence on the site. The DEP came down and did several inspections and they determined that there was not. The DEP ultimately decided that this site was a buildable lot. They did not have any jurisdiction in terms of anything that was tidal on the site. Inland Wetlands was satisfied with the soils report that the soils located on site did not delineate any wetland areas. So, from that perspective it is also a buildable site.

Stated a late email was received today from the Milford Fire Department and wanted to clarify it. This is the last lot before you hit Silver Sands State Park. Cyclically every 5-6 years, when there is a dry season or a very wet season followed by a dry

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season, the fragmities are extremely flammable and can catch fire and there can actually be a brush fire within the State Park, and there has been in the past.

Because of that and because of the existing water infrastructure in the roadway and the distance to the nearest hydrant, the Fire Department required that the applicants install a residential sprinkler system. Normally, a sprinkler system is not required for single family homes, so this is a rather unusual request from the Fire Department. But they felt given the resources available to them to assist in any kind of fire threat to the structure, they would be limited and this was the best way to address that issue in terms of this house. So, that is what they have required of this applicant.

She stated she had reviewed it in terms of the flood hazard compliance. It meets that. Repeated that she, the DEP and Inland Wetlands have reviewed the site extensively.

Mme. Chair: Stated she wanted to make note of the communication received today. Previously they had requested the fire hydrant be 400 feet, but then they go on to request access to rescue windows must be provided for fire department aerial equipment and revised plans should be submitted for review demonstrating required supply and fire department access. She asked Mr. Cirillo if he had received this memo.

Mr. Cirillo: Responded yes and that he and his wife understood the narrowness of the street and the proximity to the fire hydrants. They are willing to comply with the Fire Department's request for the sprinkler system.

Mr. Bender to Staff: Asked if the statements from the DEP and Inland Wetlands were in writing in the file.

Ms. Harrigan: Responded yes.

Mr. Vetter: Asked if the sprinkler system was something the Board was debating or was it out of its purview.

Mme. Chair: If approval is granted it would be pending meeting the requirements of the Fire Department.

Mr. Vetter: Stated sprinkler systems are very expensive and asked if it would be less expensive and acceptable to install a fire hydrant.

Ms. Harrigan: Stated the way she read the July 7th memo is that the Fire Department is giving them an "either/or". Either meet, following items 1, 2 or three, or install a residential sprinkler system. Stated she has had conversations with the property owner and has indicated that the Fire Department has a

genuine concern about fire safety for this house and should the Board approve this based upon having to meet some sort of Fire Department requirement, even following the approval tonight, the applicant can go back to discuss this with the Fire Department in an

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CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

attempt to refine what they mean in terms of specific

requirements, i.e., install a brand of sprinkler system that might be less expensive, as long as the Fire Department is satisfied that this structure will be safe from fire hazard. She interprets the memo to mean that the Applicants can meet items 1 through 3, or install the residential sprinkler system in Item 2.

Mr. Goodrich: Questioned how this piece of property became a building lot.

Ms. Harrigan: This property met the criteria of Section 6.4.2. for a legal nonconforming lot that could be buildable.

Mr. Liddy: Asked if a variance had been granted.

Ms. Harrigan: Yes. A side yard setback from 10 feet to 4 feet, including a one foot overhang and a rear yard setback variance from 20 feet to 17.5 feet and to vary the projections allowed from four feet to six feet.

Ms. Rose: Made a motion to approve the petition of Gary and Diana Cirillo for a Coastal Area Management Site Plan Review to construct a single family residence on Map 27, Block 453, Parcel 22, of which Michael Tarantino is the owner, pending the Fire Department corrections as noted on their letter dated July 7, 2009.

Ms. Golden: Second.

Mr. Ferrante: Commented that everything he has looked at with regard to this property indicates it is too close to the water. Questioned whether this property might come back to haunt the Board in the future.

Mme. Chair: The property has met the legal requirements and been approved by the DEP. People take a risk when they build on the shoreline and they pay for insurance accordingly.

Mr. Bender: Suggested the condition to the motion state “pending Fire Marshal approval”, which would allow them to perhaps come up with some other solution.

Mme. Chair: It has been covered that they have to go back to the Fire Department.

Ms. Harrigan: They are provided with at least two alternatives and if the Fire Department comes up with another alternative, it would probably be handled administratively.

Mr. Liddy: Is this property known to flood?

Ms. Harrigan: Yes.

Mr. Liddy: How would emergency vehicles get to this home in the case of an

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PLANNING & ZONING BOARD
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CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

emergency.

Ms. Harrigan: The flood zones stipulate what has to be done in the two specific flood zones, i.e. VE (high velocity) and AE (standard flood zone), and the flood prevention construction methods that are required for these zones.

Mr. Liddy: Stated his concern about the safety of the residents living in an area that could be flooded and emergency vehicles not being able to reach the homeowners.

Mr. Goodrich: Commented on some aspects of the CAM report.

Ms. Harrigan: There will be additional engineering and geotechnical testing regarding what kind of foundation will be built. Once this is done the owners will be able to determine the drainage system that they can provide. The on-call engineer was aware that some of this will be finalized when that test takes place.

Mr. Goodrich: There are no gutters or downspouts on the drawings. If the drawings are approved as is, there is nothing that shows a way that the rain will be caught coming off the roof.

Mr. Cirillo: The gutters and downspouts are not being shown at this time because they want to see what happens with the rainfall during construction and where it goes once it comes off the house. At that time they will determine how they will take care of that problem, most likely by installing a dry well.

With regard to the foundation and the soil testing, have not received the report back from their engineer. It looks like they will have to do pilings in the ground, probably 30-40 feet and then the footings for the foundation will sit on top of those pilings.

There was no further discussion.

A vote was taken: Eight members voted in favor. Mr. Liddy opposed. Mr. Ferrante abstained, stating although the DEP approved this lot it defies common sense.

Mme. Chair: Noted Mr. Ferrante's vote is considered opposed and stated the majority has voted for approval of the application.

3. **93-99 GULF STREET (ZONE LI)** Petition of Mark Krom to construct a second story addition to an existing commercial building on Map 55, Block 817, Parcel 34, of which Sandpiper Crossing, LLC is the owner.

Mark Krom, 981 Red Fox Road, Orange. Conducts his business at 93-99 Gulf Street. Requesting permission to construct a second floor addition at that address.

Mme. Chair: Asked for Staff comments.

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JULY 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Ms. Harrigan: All departments have reviewed and approved this application.

Mr. Goodrich: Commented that there were no curbs in front of the building. Also, the placement of the handicapped parking spaces in the rear where there are stairs and the handicapped access to the building is in the front. Thought that the handicapped parking should be closer to the handicapped entrance.

Mr. Krom: Explained that the parking area in the front of the building was too narrow for the handicapped parking spaces. There is a curb in the front of the building and there are two cut outs for the driveway.

Mr. Goodrich: Asked if it would be possible to put ramps instead of stairs in the back of the building for handicapped access.

Mr. Krom: The front is level with the doorways. In the rear the steps go from three stairs to the end unit, which is six-stairs. In order to put a ramp there, it would take up a great deal of the parking lot area.

Mr. Vetter: Asked what the additional second floor space would be used for.

Mr. Krom: The area is only approved for office space. He will expand his office and the remainder of space will be leased to two tenants.

Ms. Shaw: Moved to approve the application of Mark Krom to construct a second story addition at his business located at 93-99 Gulf Street.

Mr. Vetter: Second.

All members voted in favor. The motion was approved unanimously.

D. CONTINUED PUBLIC HEARING EXTENDED TO 7/14/09; exp. 9/17/09

4. **314 BRIDGEPORT AVENUE (ZONE CDD-2 AND R-7.5)** Petition of Brian Lema, Esq. for a Special Exception and Site Plan Review to construct a 10-unit multi-family residential building with off-street parking on Map 24, Block 381, Parcel 1, of which D.A. Black, Inc. is the owner.

Mme. Chair: This public hearing was held open for many reasons: 1) Lighting plan with fixtures; 2) Snow removal plan; 3) Parking recalculations; 4) sidewalks. However, the Devon Revitalization Committee has stated the special sidewalks do not go up as far as this location.

Brian Lema, Bercham, Moses & Devlin, Broad Street, Milford, representing the owner. The Chair is correct in the number of items listed to be revised. They have been addressed and will be discussed and submitted tonight.

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
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CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Patrick Rose, Rose Tiso & Co., Fairfield, CT. Project Architect. Submitted reduced plans to the Board which he reviewed as follows:

Parking spaces: Handicapped parking was revamped to the back of the building, which had previously been underneath the building. Noted very specific detail on the size of the parking spaces all across the back of the building. The piers that were holding up the building had been located within 15 feet of the handicapped space and the piers have been removed, leaving the necessary space for handicapped parking. Spaces are now 9-foot center to center on either side of the handicapped space.

Photometrics for the Bridgeport Avenue side of the building: Photometrics were done for that side of the building, all of which fall within the code for any light being shed on subsequent properties. The numbers at the property line range from .01 to .04 foot candle. The lighting in the front of the building is decorative at each of the units. There is not a lot of lighting, but there are street lights on Bridgeport Avenue. Photos and fact sheets showing the decorative light fixtures and pole lights for the back of the property were in the information provided to the Board.

Snow Removal and Storage of Snow: Two areas will be used. One is on the easterly side of the parking lot and the paved patio area which can be used for snow removal in the winter. A lot of the parking area is underneath the building and is protected.

A record of the changes made has been noted in the plans.

Stated he received the reviewing engineer's comments on April 28th and responded to them on May 5th, at which time he complied with all their remarks. As of this date he has not received their next go-round of comments or a response from the Public Works Department.

Mr. Rose: His letter in response was made just before the public hearing and the engineer would not have had time to review it, but he has not heard back from them to date.

Mr. Sulkis: Last comment from the Public Works Department received was 4/30/09. Will have to get the updated information.

Mme. Chair: For the record there is no engineering or public works approval at this time, but the Planning and Zoning Office can deal with this issue.

There was a brief discussion about the lighting and that it is designed with a refractor to point the lighting downward.

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JULY 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mme. Chair: Asked if there was anyone to speak in favor about the issues that have just come before the Board. (There was no response). Asked if there was anyone to speak in opposition. (There was no response)

Mr. Lema: In conclusion, this application uses the highest quality of design and materials. It will vastly improve what is there now, and the adjoining Bridgeport Avenue area. It will also be consistent with the other developments that hopefully will be built a block or two away and encourage further investment along a critical commercial and high density corridor within the City.

Mme. Chair: Declared the public hearing closed.

PUBLIC HEARING CLOSED 6/16/09; expires by 8/20/09

5. HOUSATONIC DESIGN DISTRICT

3.12.5. Prohibited Uses

3.12.5.3 Trash hauling, solid waste processing, construction and demolition debris storage and processing, recycling plants, and volume reduction facilities. To the extent that these uses are accessory to permitted principal uses, they shall be allowed.

Mme. Chair: Read her comments regarding this proposed change for the record:

“We heard some forceful objections to this regulation change at the public hearing, many of which were from businesses that will not be impacted. When the wording was tightened up it was clear that the power company, Iroquois Gas, Gas Equipment Engineering Corp and, of course, the city transfer station and the sewer treatment plant (which are not subject to our regulations), will not be impacted. However, if we make this change certain businesses will become non-conforming, and will then be grandfathered.

There were many very general statements made by some, such as, that this would be spot zoning, would be an illegal taking, did not conform to our Plan of

Conservation and Development, that it was poor planning, and that we would not be supporting state/federal programs that encourage recycling. None of which are correct in my mind. The Board has the right to reevaluate any zone and to make changes that are deemed beneficial to the health, safety and general welfare of the community as well as to the environment.....which, in my mind, is essential to good planning. This does not, even by stretching, meet any definition of spot zoning or illegal taking.

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JULY 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

As was stated by Mr. Sulkis, we did have a glimpse into the future with the numerous trucks that were reported traveling through this area some time ago which did give impetus to the city to re-evaluate uses in HDD zone. The number of trucks that were noted in the past certainly could be likened to the traffic generated by a trucking terminal, which is ALREADY prohibited in the zone

So, I ask then:

1. Does this change comply with our 2002 Plan of Conservation and Development? And I would say it does. On page 132 where it states, 'We need to protect residential neighborhoods from encroachment by inappropriate non-residential use.' page 133: 'Water dependent uses should be protected from development of non-water usage.'; page 30 'Preservation of our watercourses must be considered in all land use decisions. Such preservation is essential to maintaining the integrity of Long Island Sound and protection of our waterways is crucial.'
2. Are there other industrial zones in the city that will allow what we are proposing to prohibit in the HDD? The answer to that is yes.
3. Are we somehow not following state/ federal environmental policy guidelines in disallowing this kind of recycling in the HDD? Here the answer is "no". It's a matter of protecting residential neighborhoods and a vulnerable environment on a waterway (the Housatonic River). I am sure that all of us support state and federal programs that encourage recycling, we are merely saying that they need to be located in areas that don't in themselves adversely impact the environment.
4. Are we drastically limiting the economic viability of this zone by making this change? I would say "no" as there are many, many other industrial uses that are allowed. It is just this TYPE of use that we are looking at prohibiting.

So, let's make this clear that I would like to see this change happen. Merely because a zone has been in place for years does not legitimate its continuance. It is always hard to make changes of this kind. What often happens as the saying goes, 'What may be good for the goose may not be good for the gander.' In our decision making as a Board we are always looking at what will best serve the city and the greater good, and I personally think this change meets that criteria."

The Chair at this point opened the discussion to the Board.

Mr. Bender: Has reviewed the materials. Concern is that this is very close to the river. It is in a coastal management area. Do not want anything to be done over there that will hurt any of the natural resources. Also, a large amount of trucking going through a residential area is not good. From what he has read and seen, thinks it would be a good idea to do this.

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JULY 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mr. Goodrich: Liked what the Chair said and the points she brought out. It is the Board's responsibility to look at the regulations and see what they like and do not like and what is best for the residents and businesses of Milford and to take on the responsibility to make the changes that they see fit. Overall, this is one that should be approved.

Ms. Shaw: The Board is committed to recycling. No one is disagreeing with that. In the report that was handed about with regard to the Debris Management Plan, there is a part that talks about the impacts from noise, dust and traffic that is tolerated by the public. Early in a disaster they may have to be curtailed later and avoid locating these near residential areas, schools and hospitals. The traffic in the residential area must be protected.

Mr. Liddy: A number of businesses were mentioned that would not be impacted were mentioned. What businesses would be impacted?

Mr. Sulkis: According to the testimony at the Public Hearing, Grillo Green Cycle would become a preexisting nonconforming use.

Mr. Goodrich: Made a motion to approve the change to section 3.12.5.3 to read:

“Trash hauling, solid waste processing, construction and demolition debris storage and processing, recycling plants, and volume reduction facilities. To the extent that these uses are accessory to permitted principal uses, they shall be allowed.”

Ms. Shaw: Second.

Mr. Sulkis: Asked to amend the motion to reflect the effective date be July 22, 2009.

Mr. Goodrich: Amend motion to reflect the effective date to be July 22nd, which will be 14 days after the public notice.

Mr. Liddy: Second.

A vote was taken on the amendment. All members voted in favor.

A vote was taken on the main motion. All members voted in favor.

The motion and amendment passed unanimously.

E. PROPOSED REGULATION CHANGES

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JULY 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mme. Chair: Stated that the wording of a couple of the previously approved regulations was to be tweaked and sent on to the necessary agencies for approval.

Mr. Sulkis: Mentioned he will be making those minor word changes.

Mme. Chair: Asked when the Public Hearing could be held on these changes.

Mr. Sulkis: Probably in September.

Mme. Chair: Asked about the sign regulations. Was hoping to have them ready by July. Does not appear that way.

Mr. Sulkis: A draft of the proposed sign regulations is being reviewed and will then be given to the Board for its review.

Mme. Chair: Asked that the Chamber be consulted on this as well.

F. LIAISON REPORTS

Ms. Rose: Attended the Connecticut Conference of Municipalities workshop on FOI, Ethics and Public Meetings. Noted that the three-minute limit on speakers at a public hearing is permitted and legal.

Mrs. Golden: Surprised to learn at the conference that anyone can come to the meetings and they do not have to live in Milford. Also, those people who come to the podium to speak and are asked to state their names and addresses can decline to do so.

Also noted that texting or emailing to board members, especially during live transmission of a meeting, is being reviewed. Have not come down with any laws regulating this, so at this time it is up to the individual board to deal with this issue as it arises. Stated Milford P & Z was on the cutting edge by taking action on this situation when it was indicated at its meetings.

G. APPROVAL OF MINUTES – (6/16/09)

Mr. Vetter: Motion to approve.

Mr. Bender: Second

All members voted to approve the minutes as recorded.

**UNAPPROVED MINUTES FOR THE BOARD MEETING OF THE
PLANNING & ZONING BOARD**

HELD TUESDAY, JULY 7, 2009; 7:30 P.M.

CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD

H. CHAIR'S REPORT – None.

I. STAFF REPORT - None

The next meeting will be held on July 21, 2009

The meeting adjourned at 8:33 p.m.

Phyllis Leggett, Board Clerk