

**MINUTES FOR FIVE (5) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD HELD
TUESDAY, JULY 19, 2011; 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the Public Hearings of the July 19, 2011 Planning and Zoning Board at 7:31 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Edward Mead, Mark Bender, KathyLynn Patterson, George Gasper, Kevin Liddy, Susan Shaw, Chair; Victor Ferrante (7:32)

Not Present: Gregory Vetter, Sr., (Vice Chair); Robert Dickman, Janet Golden

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

C. EXECUTIVE SESSION – Discussion of Planning and Zoning Board Appeal of 42 Laurel Avenue.

Mme Chair: Asked for a motion to go into Executive Session.

Mrs. Patterson: So moved.

Mr. Liddy: Second.

All members present voted to go into Executive Session at 7:31 p.m. to discuss 42 Laurel Avenue with Attorney Carmine Perri.

The Chair asked for a motion to come out of Executive Session at 8:02 p.m.

Mr. Liddy: Made a motion to come out of Executive Session.

Mrs. Patterson: Second.

D. PUBLIC HEARING – Closes By 8/23/ 2011; Expires 9/22/2011

1. **255-257 NAUGATUCK AVENUE (ZONE CDD-2)** Petition of Codespoti & Associates for a 3-lot re-subdivision, Site Plan Review and a Special Permit to allow tandem parking on Map 15, Block 244, Parcel 8, of which Titanium Properties, LLC is the owner.

Jeffrey Gordon, President, Codespoti & Associates, 504 Boston Post Rd., Orange, CT, representing Titanium Industries for its application for a re-subdivision. The property is 8,000 SF in the CDD-2 zone, which contains an abandoned commercial building. The CDD-2 zone allows commercial, mixed use, multi-family or single family

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development. The 8,000 SF could be divided into four building lots. The applicant is proposing three lots with a contribution to the Open Space Fund.

An application was made previously on this site for two duplex homes (4 units). Now down to three homes that would be single family, on individual lots, and as a requirement of the WPCA, the lots would be deed restricted to prohibit any more than three bedroom homes from being built on each lot. Plans are for three bedroom homes, with a single car garage. The configuration of the homes on the lots with the required setbacks of five and ten feet for single family residences was discussed with Mr. Sulkis. It is possible that a commercial use could be applied for on the adjacent property to the north and that a ten foot setback should be maintained. The regulations demonstrate that there be a landscape buffer. There is an existing fence and a hedge. The regulations state that single family dwellings are not required to provide a buffer, but should the use be petitioned to change to commercial in the future, the buffer would be in place.

The single family home, called a "cottage", will be approximately 1500 SF each, with a one-car garage. Requesting to put tandem parking of a vehicle in front of the garage, as most single family homes in the community are able to do. In a single family zone this is allowed, but this is a multi-use zone; sometimes single-family, commercial or mixed use.

Mr. Gordon distributed a handout to the Board as to what is being proposed and what could be done if the tandem parking was not approved.

The setbacks for buildings for the various uses allowed in the CDD-2 zone was discussed. Floor plans and elevations of the proposed homes had previously been submitted to the Board.

Mr. Sulkis: Said the floor plan received in October was not scalable. He asked for scalable floor plans to confirm that the garage is actually usable. Also need to be able to confirm that the structure that is being built provides for the parking they are requesting.

Mr. Sulkis read the comments made by the Engineering Department.

Mr. Mead: The address is 255-257 Naugatuck Avenue but the houses will face Manilla Avenue.

Mr. Gordon: When the subdivision is granted they will assign new street addresses, which will be on Manilla Avenue.

Mrs. Patterson: Asked if he would add the parking spaces to the side instead of in the back. Asked if there was additional parking on Manilla Avenue.

Mr. Gordon: People will park in front of their garages anyway. By moving the parking to the side would increase the asphalt, take away from the greenery, and create a wider

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asphalt apron on the street. There is only one house on Manilla Avenue next to the proposed houses, so there is plenty of parking on the street.

Mr. Gordon: Noted that scaled floor plans were included with the resubmitted plans, with a note that the buildings were going to be two feet wider. They were scaled at 3/32". A set was submitted and date stamped into the record.

Mr. Ferrante: Asked if the setbacks were affected in any way?

Mr. Gordon: No. Sheet SP-3 shows each house as being 20-feet wide.

Mme. Chair: Anyone to speak in favor of the application? (No response).
Anyone to speak in opposition?

Mike Delvecchio, 40 Manilla Avenue. He has a house at the end of Manilla Avenue, which is a few houses down from the proposed subdivision. He fears that this development, with additional driveways on Manilla Avenue, will add to the density of automobiles on Manilla Avenue. There are additional cars from the commercial businesses in the area, such as Aldario's Restaurant, especially when there are affairs going on. He described the sometimes heavy traffic pattern that exists at the Naugatuck Avenue/Manilla Avenue intersection.

The house at 16 Manilla Avenue has four cars parked there. Not in favor of the density that the tandem parking will create. Across from this area is a very wide driveway to Aldario's and there is overflow parking on Manilla Avenue. Not in favor of the density and potential issues that could be caused by the placement of the driveways.

Mr. Delvecchio submitted his comments and photographs, which were date stamped into the record.

Mr. Liddy: How many homes are on Manilla Avenue?

Mr. Delvecchio: 4 houses on the right hand side and 6 houses on the left.

Sharon Benson, 115 Old Point Road. Learned about this proposal about a week ago. Her neighbor has raised a good issue about density and parking. Given a snowstorm the residents will not be able to get out of their driveways. Lots are too small for what is being proposed. Further up Naugatuck Avenue a development was approved for approximately 40 units and was never completed. The foundations still exist.

Rebuttal:

Mr. Gordon: Police and fire departments reviewed the application as far as health and safety issues. If this were to be a commercial use on this property, the commercial use would generate much more traffic than the three proposed single family homes, as exhibited by Aldario's Restaurant. The smaller homes are appropriate for the property

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and are suitably landscaped. They even exceed the requirements of tree caliper. Sidewalks will be newly constructed and add to the appearance of the neighborhood.

Banks give loans for this type of development; furniture and appliances will be sold that will help the economy. This achieves some of the stated goals of the City of Milford.

Mike Delvecchio: The sign off from the Police Department shows no detail as to how the traffic study was done. His concern is the parking issues that would be created on Manilla Avenue that would add to the traffic that is already being created by Aldario's Restaurant.

Mr. Mead: Asked about a proposed fence at the end of Naugatuck Avenue.

Mr. Gordon: SP-3 shows trees along that area as a screen. No fence.

The Chair closed the Public Hearing.

2. **ALPHA STREET HOUSING (ZONE R-18)** Petition of John Horton for a Special Exception and Site Plan Review to redevelop 15 existing single family residences and construct one single family residence on Map 69, Block 711, Parcel 17A, of which Milford Heights LLC is the owner.

Stephen Studer, Esq., Berchem Moses & Devlin, 75 Broad Street, Milford, representing the applicant John Horton and also present is Jeffrey Gordon who will discuss the landscaping, Noted the placard had been posted in accordance with the regulations.

This is an application pursuant to Section 6.2.8 for a Special Exception to convert a long-established legal, nonconforming use, into a conforming use for the purpose of allowing damaged homes to be rebuilt as of right.

The property consists of approximately 3.95 acres on Eels Hill Road. The land was acquired by the US Army in 1957, at the height of the Cold War, for the purpose of constructing 15 single-family homes to provide low cost family housing near the base to married servicemen stationed at the Nike missile base at the top of Eels Hill. In 2007, home 16 was heavily damaged by fire. It was not immediately rebuilt, and there is a letter from the US Coast Guard that they did not give up that right. As part of tonight's application, Mr. Horton is seeking approval to construct home #16.

Even after the Nike base was decommissioned, first the Army and then the US Coast Guard, continued to use the 16 homes on Alpha Street, which is what the private access way is called. It is not a City street. The Coast Guard continued to use it until 2009. Alpha Street has been part of Milford's history for over 50 years.

Mr. Studer gave the history of this military housing complex that was built. The Board received a booklet giving the history of Capehart Commons. This was part of the

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Capehart Act, named for Senator Capehart, who sponsored the legislature that provided the construction of this type of military housing. There are Capehart style homes built all over the country. The cover of the booklet shows a parade on River Street with a float carrying a Nike missile, taken in the late 1950's, early 60's.

There is other interesting information about the site and about the Nike Missile program and the historic interest it presents. The last part of the booklet describes Eric Muth's military experience at BR 17, which was the base at the top of Eel's Hill Road. Eric Muth was the former owner of Park Lane Opticians.

In 2010, the government sold the property to a private entity. The Alpha Street property was not subject to Milford zoning regulations. Now that the property is privately owned it is subject to the City's zoning regulations and has been determined to be a legal nonconforming use. A Certificate of Zoning Compliance was issued on August 30, 2010. In Connecticut, a legal nonconforming use, building or structure is a vested right protected by the Constitution. This right is protected by CGS Sec. 8-2, and case law establishes that nonconformity is not abandoned unless there is a clear intent to do so.

Mr. Horton has a contract to purchase the property. His intent is to renovate the 15 existing homes and to reconstruct the 16th home in its original configuration and then to establish a condominium or planned community so that each of the newly renovated homes would be owner-occupied. His plan is to revitalize the neighborhood.

Pages 5 and 6 show the Statement of Use which tells what is proposed for the property. Mr. Studer read from the Statement of Use. Page 15 shows photographs of a former Nike missile base in Ansonia with Capehart housing that had been renovated, which is comparable to the proposed project. Photographs were shown of what the proposed project will look like.

Section 6.2.6 of the Milford Zoning Regulations forbids the restoration and reconstruction of any structure damaged more than 50 percent, unless every portion of that structure and the use made of that structure conform to today's zoning regulations. The homes at Capehart Commons were built for a different purpose and do not conform to the standards of today's R-18 zone. Mr. Horton is concerned about the provisions of Section 6.2.6, which purport to restrict and in some cases prohibit the right to rebuild a home at Capehart Commons, should it be damaged as a result of fire, wind or other casualty. The applicant believes that Section 6.2.1 of the regulations contains an exception to the general rule set forth in Section 6.2.6 for single family homes and that Section 6.2.1 would allow the owners of a home at Capehart Commons to rebuild that home in the event of property damage. This would apply to #16 as well as the other 15 houses on the property.

In February 2011, Mr. Studer sent a letter to the City Planner, explaining the applicant's position with respect to Section 6.2.1 and how he feels it modifies or supersedes Section 6.2.6 and the reasons were stated therein. Mr. Sulkis disagreed and in a letter dated February 25, 2011, he suggested that the applicant apply to the Board for a

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Special Exception. Mr. Studer read an excerpt from Mr. Sulkis' letter. Mr. Studer stated he disagreed with Mr. Sulkis' legal conclusion with regard to the applicability of Section 6.2.1 and he has reserved his right to appeal that decision. However, they took his recommendation to heart and have filed for the Special Exception, which is why the application to before the Board tonight.

The applicant believes that the request to reconstruct a home that is severely damaged by fire, storm or other casualty makes good sense and benefits the community. Without the right to reconstruct a damaged home, the property cannot be sold as a common interest community. An alternative would be to redevelop the site for multiple family dwellings under CGS 8-30g. This is not meant to be a threat and it is not something Mr. Horton is interested in pursuing, but someone else down the road may do this. It does not make sense in this economy to take down 15 existing single family homes for the purpose of building a new city street and a five home subdivision which is all that would be allowed under the current R-18 zoning regulations. This development exists and has been part of the fabric of this community, working successfully, for over 50 years.

Jeffrey Gordon, President, Codespoti & Associates, 504 Boston Post Road, Orange. The existing condition plan shows 15 homes in the cul-de-sac and the property where the 16th home had been. There are various utilities running throughout the properties. Reviewing old maps they were able to locate everything. This was a well established community and hardly anyone knows it exists. There are well established large trees on site and that is what separates this from other small developments with ranch style homes. These were typical homes in the 1950s.

Mr. Gordon referred back to Page 14 of the booklet that shows how the refurbished homes in Ansonia look. The proposed homes will be redone inside and out and new landscaping would be planted. Met with the Tree Commission and their comments were very important.

It is unusual to apply for a Special Exception for development that exists for many years and have it reviewed. Most applications are for projects that are on paper. In this case it is known exactly what it is and how it has been occupied for many years.

With regard to constructing home #16, would be similar to the design of Forest Glen, where there are individual houses in a condominium form of ownership. They would have their own turf where a swing set, garden, etc. could be put in. The home would come with a patio and a shed and an air conditioning unit.

Landscaping for each unit was described. Five units have attached garages. The others have side by side parking spaces. Some of the trees can be saved. Others that are older and rotting out will be removed and replaced with new street trees on Alpha Street to maintain the character.

The City Engineer had some comments on the nature of the property. Subject to approval he would like the applicant to look at the adequacy of the existing drainage

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and have City inspection of sewer lines, although there have been no reports of any problems in these areas.

Also, there was much discussion on the merits of introducing sidewalks into and to this property. The existing private road is 28 feet wide and the grades are such that the standard grade profile cannot be met for a city road. It would require extensive cutting into hillsides or extensively fill on the downhill side. The large trees would be lost.

There are other factors that would not make it feasible to install sidewalks in this particular development. He suggested pages 8-13 of the booklet be reviewed, which showed the character of the streets. After a few discussions it became apparent that sidewalks were not suitable and the Tree Commission raised objection to losing any of those trees.

A suggested compromise was to continue the sidewalk on Eels Hill Road, which ends right at the southern corner of the property and extend it up to and around the corner to where the bus shelter is located and pick it up on the north side of the street and continue it up past the new proposed house #16, building new concrete aprons because this is a City street and Alpha Street is not. In addition, a new bus shelter and new communal mailboxes will be installed. The sidewalk could possibly be extended on the south side of the road, but there is a utility pole and another tree to contend with. Would be concerned about putting sidewalks down Eels Hill Road because as you get to New Haven Avenue there is nothing there.

Mr. Studer: Essentially favorable reports from City agencies have been received. There is no Inland-Wetlands permit required. Sewer Commission has requested cleanouts and the standard community sewer agreement will be entered into, since the on-site City sewers will not be part of the City system, but will remain privately owned and maintained by the homeowners association.

The Tree Commission liked the landscaping and the preservation of the existing street trees. They noted it would be "inappropriate, careless and unnecessary to add sidewalks, which would cause major damage and alter the character of the site."

He stressed they are not objecting to sidewalks for financial reasons. Objecting because there are substantial and legitimate design reasons why they cannot be built.

The purpose of the Special Exception is for the homeowner to have the ability to rebuild their house in the same shape, configuration and footprint, as it currently exists. The question of abandonment is not one of intent. It is not based upon the mere passage of time, but is with reference to a specific intent of the owner of the property. There has been no abandonment with respect to the preexisting legal, nonconforming use of the site. He noted other relevant factors of the Special Exception, Section 7.3 of the regulations. The site is surrounded on three sides by City owned property. The Alpha Street neighborhood has been in existence over 50 years and had been inhabited until 2009. The proposal will enhance adjacent property values.

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The Board's approval of this application will require a full application to the Board for a modification of any Special Exception that is granted. An approval provides the Board with ongoing oversight over the Alpha Street, Capehart Common community.

Staff Comments: Stated he had issued a report on the application to the Board. The recommendation at the end is affordable starter homes and smaller 55 and older homes are desirable in Milford and the application with enhancements suggested by City staff is recommended for approval. The enhancements include sidewalks on Alpha Street connecting to Eels Hill; a playground park area located where the proposed unit 16 would be built. Because of the existing topography, not all homes in this community could support amenities such as a swing set; as well as other architectural and site enhancements as specified by the Board. However, he agrees with a majority of what Mr. Studer presented.

Mr. Bender: Units 10 and 15 appear to have some activity. Are people living there?

Mr. Studer: There is someone living in one of the properties as a caretaker. Mr. Horton does not know for certain as he does not own the property.

Mrs. Patterson: Can there be sidewalks where the mailboxes will be located?

Mr. Studer: The mailboxes are proposed to be adjacent to the existing bus shelter. There is mobility to put sidewalks in the vast majority of the property. The mailboxes themselves can be set back from the street with a concrete pad.

Mrs. Patterson: Will parking be allowed on the street?

Mr. Studer: It will be a private street controlled by the homeowners' association. Proposing parking on one side of the street.

Mr. Liddy: Asked if the vinyl siding would be available in colors or would all homes be one color.

Mr. Gordon: There would be a small palette of colors.

Mr. Liddy: Will the homeowners own the land as well as the building?

Mr. Studer: There are a couple of choices under the Common Interest Community Act. At this time the thinking is to do the property and the building under the Air Rights Common Interest Community.

Mme. Chair: Asked about the property that is owned by the City or Board of Education. Is it open space in terms of use?

Mr. Studer: Did not know the answer, as it is City-owned property. Mr. Gordon told him there is a fence around that property and an open gate.

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Mr. Ferrante: Asked where Mr. Sulkis requested the sidewalks.

Mr. Sulkis: All around Alpha Street and connecting to the existing sidewalks on Eels Hill. There is a recommendation to extend the sidewalk to what would be Parcel #16.

Mr. Studer: Explained the reasons why the sidewalks could not be constructed on Alpha Street, given the existing topography and mature plantings that exist there.

Mr. Ferrante: Reviewed where the sidewalks would be located according to the plan.

Mr. Gordon: On the south side they would be wrapped around the corner. It will be in front of the replacement bus shelter and in front of the communal post boxes. On the north side of Alpha Street, it is proposed to carry them up to the driveway for house #16 and include that with a concrete apron, as it is a city street there.

Mr. Ferrante: That would be on Eel Street on the north side of Alpha.

Mr. Gordon: On Alpha Street it is proposed having a handicapped ramp on the corners. Did not propose turning the corner in the front of the project sign because there is a utility pole.

Mr. Ferrante: The Engineer wants sidewalks right up Eel Street.

Mr. Gordon: Yes. Right now the sidewalks are from the property line of the Alpha Street development down to the corner and that's it; just along that one small frontage of the house on the corner of Eels Hill. That is the only sidewalk on the road.

Mr. Ferrante: Mr. Sulkis recommended a playground/park where unit #16 is.

Mr. Gordon: The applicant's proposal is to rebuild the house that had been there.

Mr. Studer: Would not put a playground/park where #16 was. The house was part of the original Capehart community and was not abandoned by the military and believe they have the right to reconstruct it pursuant to the regulations. Asking the Board's permission tonight to reconstruct it as part of the Special Exception.

He added when looking at the statistics coming out of the sale of some of the property in Ansonia, a very significant percentage of the buyers have been older people. It is also appealing to a young couple demographically, but would not be as strong as the older demographic and there would be no justification or use for a playground/park. Milford has wonderful parks and playgrounds. Does not think it is appropriate to ask this particular community to provide a private facility which it does not want.

Mr. Liddy: Thought the sidewalks could be constructed on Alpha Street, especially if there will be seniors living there.

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Mr. Studer: Disagreed and explained the logic of why he felt it would not be fitting in that area.

Mr. Gordon: There are standards for sidewalk design. He explained why installing sidewalks would be a detriment, rather than an asset to the development. The trees that are there enhance the property and sidewalks would not. The Tree Commission has confirmed that. This is not a City street and was not designed to a City standard as it is 28-feet wide from curb to curb. The public has walked in that street for 50 years. Children have walked safely down to the bus shelter. That is part of the fabric of the existing neighborhood. This development is established. It is not starting from a clean, sheet of paper and should not be viewed as such. What makes it so attractive is that it has an established landscape and stable lawn areas. There is low traffic and no cross streets where sidewalks would provide safety.

Mr. Gasper: Asked about the lighting plan and snow removal.

Mr. Studer: There is no lighting plan. There are existing street lights on the telephone poles. That will not be changed. Snow removal will be the responsibility of the Association.

Mr. Studer submitted additional photographs about the sidewalk for the record.

Mr. Liddy: Asked if there would be signage for Capehart Commons.

Mr. Studer: Yes. Indicated on the plans where the signage was proposed.

Mme. Chair: Anyone to speak in favor of the application? (No response)
Anyone to speak in opposition?

Ed Vanchot , 858 New Haven Avenue. He has been living there for 15 years. Knows the people who lived in the Alpha Street housing. Looking at 15 ranches that are sitting on old military property that is not in the City zoning. He believes that the homes reconstructed on Ford Street in Ansonia do not fit in well with the surrounding area. Concerned about his property value. Does not want to see low income housing come to the area, although it is proposed as affordable housing in an association. Ultimately there will be fifteen ranches that will be occupied by City residents that do not fall in with the surrounding neighborhood. Upset about where the placard was placed because it was placed on Eels Hill Road, where it could not be seen by the public.

Spoke about the steep grade on the first residence at the corner of Eels Hill and Alpha Street and did not see how the sidewalk could be extended to that area.

Mark Soares, New Haven Avenue. He has been living there 28 years. He lives in the area where the trees are. As long as the Coast Guard has been there does not think there were more than 8 families living there at one time with few children. Has had sewage problems when people were living there. Thinks the property is more

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amenable to a subdivision on the order of Settler's Ridge, but perhaps with only 5 homes. Concerned about his home's value.

Rebuttal:

Mr. Studer: Both these residents came after the Alpha Street housing. Not introducing something new to the neighborhood. There have been 16 ranches on that location for over 50 years. Does not understand how the renovation and rejuvenation of these houses would adversely affect the property values of the speakers.

The placard was posted pursuant to the regulations. In addition, there were two public hearing notices published about this hearing.

With regard to sewage problems, the City has no record of such problems. If the project is approved, the homeowner's association would be responsible for the sewer.

Ed Vanchot: Challenges the property value question. Asked what the homes would be selling for.

Rebuttal:

Mr. Studer: Fixing up the houses can only improve other property values.

Going back to the sidewalk issue: The applicant is not doing this to be obstinate. Initially met with the City Engineer, Mr. Gordon and Mr. Wheway, PE of Codespoti. Not doing this to be cheap but because there are major difficulties that would destroy the fabric of the neighborhood. There are many streets and neighborhoods in Milford that do not have sidewalks. He cited his own street as an example. There is no problem on Alpha Street, why change it?

Mr. Sulkis: It was not just the City Engineer and himself, but the police report had also requested that sidewalks be put in. The sidewalks for this particular site do not have to be the standard city sidewalks. There are other types of sidewalks that could be utilized and accommodate the trees as well.

Mr. Studer: Again stated they had met with the City Engineer and Director of Public Works and arrived at a compromise. Would do what Mr. Sulkis is asking, but he does not feel it can be done.

Mr. Gordon: Met with the Public Works Director, City Engineer and Tree Commission. It is very steep. There is a grade issue there. Installing sidewalks could be done at a great cost and would ruin the character of the neighborhood. Believes it would be irresponsible to do so.

Mme. Chair: There may be something more creative that can be done that could make a safe pathway for people to walk in, since this is a private street.

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Mr. Studer: The Board members can go and look at the site for themselves. With respect to the Police Department, their comments are advisory. Believes the thought behind the request for sidewalks was for school children. Does not think there will be children in this type of development.

Mr. Liddy: Would the school bus go up Eel's Hill Road to pick up children?

Mr. Studer: It picked up the Coast Guard children. There is a bus shelter for that purpose. Milford Transit services it.

Mrs. Patterson: Spoke about the proposed placement of the mail boxes, whereas previously the mail was delivered to each home.

Mr. Gordon: Explained how the mail is generally picked up at the communal mailboxes.

Mr. Ferrante: Clarified his understanding of the sidewalks: The applicant is asking to waive the sidewalks on Alpha Street, but for the turn in from Eel Street?

Mr. Gordon: Correct.

Mr. Ferrante: But the applicant is willing to do what the engineer requests on Eel Street, which is put in the sidewalks.

Mr. Gordon: Correct.

Mme.Chair: Closed the public hearing.

[A recess was taken from 9:47 to 9:55]

3. **195 MAGNOLIA ROAD (ZONE R- 30)** Petition of Michael Marcus for a Special Permit and Site Plan Review to allow a home occupation, with two employees, in a single family residence on Map 95, Block 925, Parcel 1448, of which Michael and Marilyn Marcus are the owners.

Michael Marcus, 195 Magnolia Road, Milford. He has a simple request for a Special Permit which will allow one additional car in his six-car driveway from Monday to Friday. It will have no effect on his neighbors and no effect on the City of Milford. He and his wife are the owners of Ablecomm Communications Equipment. Started as a home based business in New York. Moved to Milford and continued the business from home. In 2006 the business moved to an industrial park in Milford for additional space. The economic recession has greatly affected his business and he has three employees instead of six. Cannot afford to pay commercial rent and utilities. In order to continue his business he must go back to running his business from home.

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The business meets all the requirements of Section 3.1.3.2, except he has two employees, not one, who does not live in the home. The business drop ships orders directly to customers. No shipping takes place from the house; there are no commercial trucks; no signs, etc. There will be no negative effects to the neighbors. He produced a report of approval of his application from seven of his neighbors.

Mrs. Harrigan: This is not the type of application that usually comes before the Board. If the property was in a smaller property zone it might be a problem for the Board to consider. The property is in an R-30 zone with a three car garage and a very adequate driveway, however, the regulations require it come before the Board to grant that approval.

The Board members asked various questions concerning the nature of Mr. Marcus' business. The floor plan showed where the business would be located in the basement of the house.

Mme. Chair: Anyone to speak in favor? (No response) Anyone opposed? (No response)

Closed the public hearing.

Mr. Bender: Made a motion to approve the petition of Michael Marcus for a Special Permit and Site Plan Review to allow a home occupation, with two employees, in a single family residence on Map 95, Block 925, Parcel 1448, of which Michael and Marilyn Marcus are the owners.

Mrs. Patterson: Second.

All members voted in favor. The motion was approved.

4. **989 WHEELERS FARMS ROAD (ZONE R-A)** Petition of Ronald Standish for a two-lot Subdivision on Map 118, Block 904, Parcel1C, of which Frank and Virginia Camputaro are the owners.

Thomas Lynch, Esq. 63 Cherry Street. Resubdivision of a property prepared by Codespoti & Associates. Frank and Virginia Camputaro have owned the property for over 50 years and have operated the Maple View Farm. They have their landscaping and greenhouses on the property at this time. Lot #1 shows the current single family residence and Lot #2 is for the proposed residence. They went before the ZBA in February 2011, (a copy of the ZBA decision was submitted for the record) to vary the relevant sections of Section 3.1.4.1 to allow for a division of the property based upon the fact that the property was in the R-A zone and each parcel would be close to 28,000 SF and would be in conformity with the area. It was burdensome to the property owner to maintain a 1.3 acre site with respect to other development in the area. ZBA granted the variance. The two lots now conform to the zone requirements.

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Mr. Lynch reviewed the plans via a site display.

The second lot will not be transferred or sold. The present owners plan to build a house and move into it and rent the existing home. There will be an equal division of the property into the two lots.

In accordance with Mrs. Harrigan's review of the plans, there was an amendment to remove a good portion of the asphalt existing on the property, which has been done.

The comments of the tree commission were addressed. This was the second stage of the approval process. The drainage and site improvements have been made.

Mme. Chair: Noted two waivers were being requested.

Mrs. Harrigan: 1. Eliminate the need for curbs along the street.
2. Eliminate the need for sidewalks

Mr. Lynch: Noted the narrowness of Wheelers Farms Road and there are no other sidewalks in the area. There may be sidewalks in the D'Amato subdivision but not on Wheelers Farms Road.

Mrs. Harrigan: Conditions will have to be made in accordance with some of the departmental reports. The Police Department specifically wanted to increase the line of sight to 250 feet in both directions and would like a deed restriction for the property that maintains that sight line and limits any vegetation within that area. If this is approved, the deed restriction language will have to be approved.

The Tree Commission would like two additional trees for Lot #2. Those are requested to be provided in the yard and not actually in the right of way.

Mr. Liddy: Asked what the health issue was.

Mr. Lynch: It has a septic system and that requires review by the Health Department.

Mr. Liddy: Asked how the ZBA could grant the split of the property into two lots.

Mr. Lynch: Clarified the ZBA granted a variance to allow the Planning and Zoning Board to subdivide the property based upon a variance of the R-A zone regulation that calls for an acre zone for each lot. They granted the variance to reduce the requirement for the square footage of the lot.

Mr. Liddy: Asked if it was within the ZBA's purview to do so.

Mrs. Harrigan: Stated it is a standard within the zoning regulations, so the ZBA can vary standards within the zoning regulations. When the Board reviews the subdivision they look at it with regard to everything else.

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Mr. Liddy: Asked what the present sight line was.

Mrs. Harrigan: The present proposal is only 150 feet.

Mr. Liddy: How will that be corrected?

Mr. Lynch: There was a berm in the middle of the property that was excavated out and that will increase the sight line per the police standard.

Mr. Ferrante: Brought up the issue of sidewalks on the property.

Mr. Lynch: From a safety point of view and practicality he thought they should not be required. In that particular area of Wheelers Farms Road there does not appear to be a need for sidewalks, but it is up to the Board.

Mme. Chair: Anyone to speak in favor of the application (no response)
Anyone to speak in opposition (no response)

The public hearing was closed.

5. **28 TOWER STREET (ZONE R-12.5)** Petition of Thomas Collucci for a two-lot subdivision on Map 53, Block 306, Parcel 45, of which Edward David is the owner.

Tom Lynch, Esq., Lynch Trembicki & Boynton, 26 Cherry Street, representing Tom Collucci as well as the owners of the property, the Davids, who are living in Maine.

Before the Board for a re-subdivision of a piece of property that was presented to and granted by the ZBA in July to allow a waiver of the one acre requirement for a rear lot. The lot as proposed to the rear of the property consists of basically 35,000 SF, which is 4,500 SF off what an acre would be. The ZBA approval of the variance allowed the applicant to come before the Planning and Zoning Board with a re-subdivision application to have the property divided into the two lots as shown on the map.

A title search was done to see if the re-subdivision application was necessary. There had been a dispute over family transfers and it was determined that this property did qualify for an application for a re-subdivision. The property is part of the Wojak farm and there are remnants of that exist between Tower Street and West Town Street. Tom Collucci, lives on West Main Street, across the street from the back portion of this original property. Another portion of the property was transferred to the Water Company in the 1950's. That property was divided about eight years ago and there are now two residences on that site at the intersection of Clark and Tower Street. This is the last vestige of that property.

An aerial view of the property showed the property as being L-shaped and is located in an area of "hodge-podge" zoning. There are three different residential zones that border onto the site.

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Believes the owner is entitled to put this area to its highest and best use. The area of the application is nearly three times the area required for a lot in the zone where the property is located. He has been working on developing this property for over a year. Twelve to fourteen 8-30g units can be put on this property. A three-lot subdivision was also considered. The Davids want to sell the property to Tom Collucci to build a single residence, which is a reasonable request.

Two things are working here: Zoning regulations and subdivision regulations. Asking for the waiver of the subdivision regulation, mirroring the zoning regulation in terms of granting the subdivision of this property.

Stated he is aware of a follow-up regulation change that is being proposed in terms of having access to rear lots be in fee simple rather than through an easement, but the existing language of Section 2.5.5 of the zoning regulations calls for a split of the lot with a means of private access, which, by definition is what an easement is, access to the rear lot with an easement, as long as the easement area is not included in the calculation of the square footage for the lot. That is the background of this application.

Tom Collucci and the City Planner reviewed the utilities, drainage and tree plans.

Mrs. Harrigan: Asked if the front parcel was zoned R-10 or R-12.5. She checked the zoning map and it indicated it was R-10.

Mr. Lynch: The original application filed with the ZBA showed it as R-12.5.

Mrs. Harrigan: That is what the survey shows.

Mr. Lynch: The property has 14,145 SF.

Mrs. Harrigan: Got Tree Commission comments yesterday. They would like to see another tree to the right of the proposed new driveway in addition to the two that are already there. There is a waiver requirement.

Mr. Liddy: How does the difference in zone affect this?

Mrs. Harrigan: The front parcel could be smaller.

Mr. Liddy: Suggested the driveway be relocated to preserve the trees.

Mr. Lynch: The abutting homeowners thought the way the trees are located would provide more privacy.

Mrs. Patterson: Asked if there was something on the property judging from the aerial view.

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Mr. Lynch: There is a shed of some sort.

Mr. Ferrante: Asked what the proposed paved or traversable area was and what was the requirement?

Mr. Lynch: Fifteen feet.

Mr. Ferrante: Asked if it was a straight driveway that could be accessed by emergency vehicles.

Mrs. Harrigan: Police and fire had no problems with access.

Mr. Ferrante: Asked if the easement portion could be of permeable lawnscapes, or something of that nature rather than asphalt.

Mr. Collucci: That problem was addressed by the City Planner because a dry well is being put at the end. There will be five feet of green on each side of the driveway and the drywell, so the water will go into the drywell and into the ground.

Mme. Chair: Anyone to speak in favor? (No response) Anyone opposed? (No response)

The public hearing was closed.

E. CGS 8-24 APPROVAL

6. **CAPITAL IMPROVEMENT PLAN** – Request of Mayor James Richetelli, Jr. for CGS 8-24 approval of the City of Milford Capital Improvement Plan 2011-2016.

Mayor Richetelli: This is the five year plan that identifies the basic capital needs of the City. It is a planning tool and is not an absolute. Many items of the plan may not be funded by the Finance Board's approval process. The Capital Improvement Plan is necessary, because without it certain State grants and some Federal grants would not be available if they are not part of the Capital Improvement Plan. There are no frills in this plan. Most items pertain to schools, sewers, roads and drains that maintain the infrastructure of the City and the safe and healthy condition of facilities for the public.

Mr. Liddy: Eels Hill storage facility. Does it relate to the proposed application that came before the Board tonight?

Mayor Richetelli: There are two sections of the Eels Hill property. One was used by the Coast Guard and the larger portion is city-owned property used by the Board of Education. It had been the central office of the Board of Education before the Parsons Complex opened in 1986. There are two buildings used by the City for storage of belongings for evicted properties, which is required by State statute. The property has

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not been kept up. There are other minor uses for these properties. Other small uses, mainly telecommunications on this site by the Police and Fire Departments.

Mrs. Patterson: Commented she was glad that the Police Department is in the Plan, because they need the space.

Mme. Chair: Noted that the Board is just giving its recommendation. If for any reason it did not give majority approval, it would still go to the Board of Aldermen and would require its super majority.

Mrs. Patterson: Made a motion to approve Request of Mayor James Richetelli, Jr. for CGS 8-24 approval of the City of Milford Capital Improvement Plan 2011-2016.

Mr. Ferrante: Second.

Mr. Liddy: Asked if Gulf Street erosion will be corrected.

Mayor Richetelli: Gulf Street has been the victim of erosion over the past years. Have received permission to transfer sand. Now the City has received permission from DEEP to build a breakwater. Will do the annual transfer one more time.

All members voted in favor of approval of the Capital Improvement Plan.

F. PROPOSED TEXT REGULATION CHANGE

Section 2.5.5 Lot Access and Rear Lots

No discussion.

G. BOARD MEMBERS GREEN GUIDELINE BOOK AND BY-LAWS

The next meeting of the Subcommittee will be held on August 2nd at 6:30 p.m.

H. PLAN OF CONSERVATION AND DEVELOPMENT

No update.

I. LIAISON REPORTS

Dr. McBride cited Harrison's as a blight.

Mrs. Patterson: Police Report - Three service retirements. Thanked Officers Shea, Robbins and Chief Fournier for their years of service to the City.

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Mr. Mead: Inland-Wetlands. They had an application for a rental property on Cascade Blvd. The applicant said it would be 38-rentals in an 8,000 SF building consisting of studio and one-bedroom apartments.

J. APPROVAL OF MINUTES – (7/5/2011)

Mr. Bender: Motion to approve.

Mr. Liddy: Second.

All members voted in favor.

K. CHAIR’S REPORT - None

L. STAFF REPORT - None

Mr. Liddy: Made a motion to adjourn.

Mrs. Patterson: Second.

All members voted to adjourn at 10:50 p.m. The next Planning and Zoning meeting will be held on August 2, 2011.

Phyllis Leggett, Board Clerk