

**MINUTES FOR THE PLANNING & ZONING BOARD MEETING  
HELD TUESDAY, OCTOBER 5, 2010; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the October 5, 2010 meeting of the Planning and Zoning Board at 7:38 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Robert Dickman, Janet Golden, Edward Mead, Kevin Liddy, Vice Chair, Greg Vetter, Kim Rose, Victor Ferrante, Susan Shaw, Chair.

**Not Present:** Mark Bender, KathyLynn Patterson

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

**C. NEW BUSINESS**

**1. 8-24 APPROVAL – 26-28 BROAD STREET (ZONE MCDD)**

To approve modification to City parking easement previously approved by the Planning and Zoning Board on April 7, 2009.

**Vincent Marino, Esq., Cohen & Wolf, 1115 Broad Street, Bridgeport,** representing the property owners of 26-28 Broad Street, Mr. Peter Spalthoff and Ms. Susan Harris. Requesting that three of the five parking spaces burdened by an easement in favor of the City, be relieved of that burden.

**Background:** On August 7, 2009, the Planning and Zoning Board approved the construction of a second floor addition to the existing structure. At the present time, his clients do not have any parking exclusive to their building because the five parking spaces on their property are subject to an easement in favor of the City which was granted to the City by his clients' predecessor in interests on August 5, 1978.

According to the language of the easement, the City will consider requests for partial releases of the easement to allow for a limited expansion and improvement of the existing structure. The easement requires approval from both the Planning and Zoning Board and the Board of Aldermen and also requires this Board to make a finding that the improvement, which they have already approved, will not adversely affect the availability of downtown parking.

During the April 7, 2009 meeting, the Board discussed the adequacy of the parking and stated at that time that there was no problem with the parking adequacy. He is here tonight to ask that the Board vote affirmatively to relieve the burden of the easement with respect to the three spots that have been identified on the map submitted to the Commission that are marked by an X. The purpose of lifting the easement to those three spots is so his clients would each have a spot to park their car, as well as one visitor's spot.

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For purposes of reference, there is ample parking in the downtown area to accommodate the needs in this area and relieving the burden with respect to these three spaces will not have an adverse impact on this area.

**Mme. Chair:** Asked for Mr. Sulkis response on the easement.

**Mr. Sulkis:** When the Board approved this in April 2009, they were not aware that the property and the site plan that was approved was involved in the easement. It was known there were easements in the area. He believes at the time the information that was provided to the Board led them to believe that that this area was not part of the easement, but in fact, it was. As Mr. Marino said, it has no impact on the parking situation and the rest of the easement which is a majority of the interior of the rest of the block that that property is on. Since the Board has already approved the site plan, he recommends that they approve the 8-24 request.

**Mr. Vetter:** Asked what the Board was being asked to do with regard to the easement, modify it or remove it?

**Mr. Sulkis:** The Board is approving the ability for the City to enter into discussions with the applicant to change or modify the easement that the City holds over this. Under an 8-24, any time the City gets involved in a lease or changes the language of the lease, it is subject to an 8-24. In this particular case there is an easement that the City holds and for the City to enter into discussions with a property and to alter that easement, the Board needs to approve it.

**Mr. Marino:** Distributed a copy of the easement to the board members. He stated the pertinent language of the easement could be found on page two in the paragraph that begins, "The City will consider requests for partial release..."

**Mr. Liddy:** Asked if those three parking spaces would have signs saying the spaces are restricted, so that people coming in from out of town could not park there. How will the parking be restricted for those three spots?

**Mr. Marino:** Ideally his clients would like to designate those spots, if approved by signage. He assumed that there were approvals necessary for signage. They would have to go through that approval before they put a sign up. Whether that would be via signage on the ground or an actual post sign. That would be something they would want to do. If the City or the Board decided this would not be permitted, then they would have to deal with the public, as any other property owner would if someone was parking in their spot they would have to ask that person to move their car or seek to have the car towed.

**Mme. Chair:** Asked how the parking situation is working out now.

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**Mr. Marino:** It is sporadic. Over the last three weeks it has not been a problem because the clients have been away. It works out fine because the clients are

there earlier in the day where they get the spots. The problem is if they go out and return home and someone is there shopping or dining, then they don't find a spot to park.

**Mr. Vetter:** Read the Board's role is basically releasing the City so that they can negotiate this further.

**Mr. Sulkis:** Under the responsibilities of an 8-24, when the City gets involved in contracts and negotiations and leases and easements, this Board as part of that process has to approve it and then it goes on to the Board of Aldermen. If they choose not to approve it, then the Board of Aldermen needs a super majority to approve it, instead of a simple majority.

**Mr. Vetter:** Moved to approve the modification to City parking easement previously approved by the Planning and Zoning Board on April 7, 2009. This is for 8-24 approval for 26-28 Broad Street.

**Mrs. Golden:** Second.

Attorney Kevin Curseaden interjected to ask if this was a public hearing to present an opposing point of view?

**Mme. Chair:** Replied no, this was not a public hearing.

All members voted to approve the motion.

2. **99 HILLSIDE AVENUE (ZONE R-5)** Petition of Robert Scofield for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 49, Block 724, Parcel 12, of which Christopher Snyder and Judith Faulkner are the owners.

**Robert Scofield, 60 Whalley Avenue, Milford.** Retained as the construction engineer for Christopher Snyder and Judy Faulkner to build a single family residence at 99 Hillside Avenue. The house will be part modular and part conventional frame structure. There are no adverse effects to the coastal resources in the area. The previous house on the property has been demolished and it is an open building lot at this time. There are some old sea wall structures that are proposed for removal. The new foundation will be consistent with the wave action zone and the environment in which they are proposing to build.

**John Wicko, 50 Broad Street, Milford.** Became involved in the project, through the modular company, doing the piers down into the ground. Present to answer

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questions regarding the piers and the break-away walls. Everything is consistent with FEMA requirements. Worked diligently with the City departments and State DEP to meet all the needs and requirements. It was a bit of a challenge with the modular company, they were able to provide all the necessary structural requirements that will take place in the future and for the wave action in the flood zone the property is in.

**Ms. Harrigan:** This is in the VE flood zone. This is on piers and break-away walls. It was thoroughly reviewed by her and the DEP. The plans are to the satisfaction of the DEP and the NFIP coordinator up at the State.

**Ms. Rose:** Asked if this is in accordance with the current DEP flood regulations or the proposed flood regulations.

**Ms. Harrigan:** Stated she would have to check the map. Thinks in this neighborhood it was the same. With the old maps and the new maps, where the flooding hazards occur almost across the board did not change from application to application. Where there was a VE vs. an AE, that is universally the same. Because it is a different map projection, everything essentially shifts down by a foot. This was done in the 1929 projection which is the old FEMA maps, but it will be consistent with the new FEMA maps as well.

**Mr. Mead:** Asked why the sea wall was being eliminated and all the other homes on the map have concrete walls.

**Mr. Scofield:** The sea wall is very old and in disrepair and it is not known if it could stand up to the wave action forces in this zone, but it is known that the foundation for the proposed home meets all the codes and is compliant with FEMA regulations. The sea wall is home made and its history is uncertain.

**Mrs. Golden:** Moved to approve the petition of Robert Scofield for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 49, Block 724, Parcel 12, of which Christopher Snyder and Judith Faulkner are the owners.

**Ms. Rose:** Second.

All members voted in favor to approve the motion.

3. **48 MELBA STREET (ZONE R-5)** Petition of JPA Enterprises for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 29, Block 558, Parcel 20, of which JPA Enterprises is the owner.

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**Jeff Attolino, 9 Mill Pond Close, Milford,** before the board seeking approval to construct a single family dwelling at 48 Melba Street. The requirements of the City departments have been met.

**Ms. Harrigan:** Noted there was a bit of time spent by the DEP's coastal permitting office in terms of determining where the high tide line was for this project. When it comes to the DEP and where their jurisdiction is and where the City's jurisdiction is, the highest high tide line must be established. That is based on the monthly tides. It is not actually based on the area of coastal flooding, as is occurring at this time. So if the site was visited today, those are conditions outside of where the DEP determines their jurisdiction. It is known that this is a flood zone property and it will flood in the future. It is not intended in terms of determining that. What the DEP spent time trying to determine was on a monthly high tide, the highest high tide of the month, (full moon conditions), where does that water reach. They determined that it was approximately 32 feet from where the structure is proposed. So they determined that their jurisdiction was done. They did not feel the need to issue a permit and it meets the City's regulation requirements.

**Mme. Chair:** Had a question on the CAM based on the recommendation that there be fencing along the side of the silt fence, because of the tidal wetlands.

The Chair read Attachment A: "Because of the close proximity of the proposed house to a small and narrow strip of tidal wetland along the eastern property, approximately three feet away ... we recommend that a temporary construction fence along these wetlands be placed with a silt fencing in front of it prior to any construction or site clearing."

**Mr. Attolino:** Asked if the Chair was referring to the orange construction fence located on the property.

**Mme. Chair:** Noted she did not see it on the site plan.

**Mr. Attolino:** Recalled it being removed because the tidal wetlands was changed in that area.

**Ms. Harrigan:** When she and the Chair were asking the question they thought it was on the westerly side of the property adjacent to where the existing home is located. Stated this property is in a high wind area, if the Board feels it would be more proper to put up a chain link fence or some other higher height construction fence and line that with a silt fence, buried below grade, that would be appropriate in this type of coastal site.

**Mme. Chair:** Stated she knew the property well and what could happen there due to flooding and debris from a storm. Concerned and would like to see extra

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caution taken because there will be water going over that property.

**Ms. Harrigan:** It would provide more stability to the silt fence.

**Mr. Attolino:** Noted he has a dumpster on site and he runs a clean site and would not have debris blowing around, especially on a tidal wetland.

**Mme. Chair:** Asked to make the fence a condition of approval.

**Ms. Rose:** Moved to approve with condition that the contractor will place a temporary construction fence with silt fence in front.

**Mr. Liddy:** Noted a photo in the CAM report showed water accumulation. Asked what portion of the home it would affect.

**Mr. Attolino:** Did not know when the photo was taken. The puddling was in the front part off the road area and about 26 feet from the proposed home. That area will be raised up for a gravel driveway. On the side there is a swell for the rain water, which will be a type of rain garden.

**Ms. Rose:** Petition of JPA Enterprises for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 29, Block 558, Parcel 20, of which JPA Enterprises is the owner with the condition that the contractor will place a temporary construction fence along the wetlands on the eastern side of the property with a silt fencing in front of it prior to any construction or site clearing.

**Ms. Harrigan:** Asked for a modification to the motion. Suggested a construction fencing to back all areas of silt fencing around the perimeter, not just the eastern portion.

**Mrs. Golden:** Second.

All members voted in favor to approve the motion.

**D. PUBLIC HEARING LEFT OPEN – CLOSE BY 11/25/10; exp. 12/30/10**

4. **329 OLD GATE LANE (ZONE ICD)** Petition of Ray Oliver, AIA, for a Special Exception, CAMSPR and Site Plan Review to construct a Popeye's Restaurant and 7-11 Convenience Store on Map 79, Block 810, Parcel 4A, of which Old Gate Lane Empire, LLC is the owner.

**Mr. Sulkis:** A letter was received from Ray Oliver requesting to keep the public hearing open while they continue to put the information together.

**Mme. Chair:** The public hearing will be kept open.

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**E. PUBLIC HEARINGS CLOSED 9/21/10; exp. 12/30/10**

5. **88 BRYAN HILL ROAD (ZONE R-12.5)** Petition of David Quatrella, Esq., on behalf of the Burr Family Trust for a two-lot subdivision on Map 47, Block 530, Parcel 30, of which the Burr Family Trust is the owner.

**Mme. Chair:** This involved removing the septic system from the existing house and tying into the sewer system with the new building lot.

**Ms. Rose:** Motion to approve the petition of David Quatrella, Esq., on behalf of the Burr Family Trust for a two-lot subdivision on Map 47, Block 530, Parcel 30, of which the Burr Family Trust is the owner.

**Mr. Vetter:** Second.

All members voted in favor to approve the motion.

6. **179 OLD GATE LANE (ZONE ID)** Petition of United Illuminating for a Special Permit, CAMSPR and Site Plan Review to construct a 5,000 SF mobile substation and cable storage facility on Map 68, Block 180, Parcel 1D, of which United Illuminating is the owner.

**Mme. Chair:** The Board was awaiting cut sheets for the light fixtures.

**Mr. Sulkis:** Cut sheets of the fixtures that will be put in place that would match the photometric survey were received.

**Mr. Vetter:** Asked for a cut sheet of the lights attached to the building.

[Mr. Sulkis showed the cut sheet of the light to Mr. Vetter]

**Mr. Vetter:** Moved to approve Petition of United Illuminating for a Special Permit, CAMSPR and Site Plan Review to construct a 5,000 SF mobile substation and cable storage facility on Map 68, Block 180, Parcel 1D, of which United Illuminating is the owner.

**Mr. Ferrante:** Second.

All members voted in favor. The motion was approved.

**F. OLD BUSINESS**

7. **734 BRIDGEPORT AVENUE (ZONE CDD-3)** Petition of Vanasse Hangen Brustlin, Inc. (VHB, Inc.) for Site Plan Review approval to construct a CVS Pharmacy on Map 33, Block 386A, Parcel 2, of which

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Dan Perkins Realty is the owner.

**Kevin Curseaden, Esq., 26 Cherry Street, Milford**, appearing on behalf of Gershman Brown Crowley and VHB for the application to build a CVS Pharmacy at 734 Bridgeport Avenue. Also present are Nate Kirschner and There were questions raised at the September 7<sup>th</sup> meeting, which will hopefully be answered tonight, specifically, the interconnecting driveway access, and additional information provided by the architect regarding the materials he demonstrated at the last meeting.

**Nathan Kirschner, Project Engineer, Vanasse, Hangen and Brustlin**, responsible for the site design of the project. With regard to the location of the future cross site access discussed at the September 7<sup>th</sup> meeting, it was discussed with the client. Based on some of the site constraints, both a rear location and an access from the front were looked at. Based on some grading conflicts in the rear of the parcel, it was decided 1) The applicant has no issue with this, and (shown on the site display) where the best location for the access way would be. Documentation can be provided to support access to the adjacent property at the front of the site.

**Mr. Curseaden:** Stated that completed the additional information they were to present.

**Mr. Liddy:** Stated he had requested information comparing the drive-thru of the CVS on Cherry Street with the drive-thru count of the proposed CVS on Bridgeport Avenue. He inquired about the pedestrian crossing at Schoolhouse Road.

**Mr. Curseaden:** The DOT has the overview of those routes. They did not recommend a pedestrian access way at that location.

**Mr. Liddy:** Asked for DOT's reasoning on this decision as well as a report on it.

**Paul Vitaliano, Project Manager at VHB.** DOT told them from the outset of this project that these were new signals and they did not want the timing of the signals disturbed, or the signals touched too much. The sidewalk will be repaired around the site. There is a cross walk across Route One that exists from the side of Schoolhouse Road opposite the site.

**Mr. Liddy:** Used the cross-walk signal at Route One mid-day on a Saturday afternoon, which worked well. The issue is crossing from Wendy's to the new CVS. On the Wendy's side there is a designated left-turn lane and signal and it is very difficult for people to cross by foot in that area. No safe way to cross that street, especially with children. Adamant that there should be a signal and a cross walk at Schoolhouse Road from Wendy's to the CVS.

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**Mr. Vitaliano:** There are two scenarios looking at this situation as to whether or not a new phase would need to be added to accommodate that or whether or not the phase currently exists for that pedestrian crossing. If the phase exists then they would have to understand where the left turns are coming from. As far as manipulating the signal and the timing, that is the one thing DOT said they did not want to do.

**Mr. Liddy:** According to the traffic report provided by VHB, that intersection is rated F, which means it is one of the worst intersections in the City and the DOT may have its own thoughts, but the Board lives here and must answer to the citizens about putting something in that is not safe.

**Mr. Curseaden:** Appreciated Mr. Liddy's concern and comments, but that issue is outside the applicant's control. If that becomes a condition of approval, then it must be contingent upon DOT approval. Believes this cannot be made a condition of approval because it is governed by another state agency.

**Mr. Sulkis:** The Board can make it a condition of approval, especially where safety is an issue. This type of thing was done with the mall, Costco and Milford Marketplace. In the end if DOT looks at it and says no, then that's it. But it can be requested.

**Mme. Chair:** The Milford Police Department had suggested that there be a right-turn only lane and that was overridden by the DOT. Agreed with Mr. Liddy that this was a keen safety issue and the Milford Police Department agreed with that. Also thinks that intersection has had numerous accidents, even without the CVS, which would be busier than the Chevrolet dealership that is currently on the property.

**Mr. Curseaden:** Again, this is under the authority of the DOT and they had this conversation with Sgt. Sharoh and they specifically do not want that to be a right turn only. If it becomes a condition of approval, contingent even further upon DOT approval, if DOT says no, then it's no. They have made their position clear with respect to the right turn only in their conversations with Sgt. Sharoh and that is reflected in his report.

**Mr. Mead:** Lives in this area. People use the gutter lane to make a right turn on red at Dan Perkins. By law, one should be in the right hand lane to make a right turn on red. This is creating three lanes in front of the building. Would like to have signs put up like the ones at the Shop-Rite Plaza on Cherry Street that say "No driving in the gutter lane". Not sure if the City police or DOT has jurisdiction on this.

**Mr. Curseaden:** Does not see a problem doing this, but it would be contingent upon DOT's approval.

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**Mr. Liddy:** Asked for information on the drive-thrus.

**Mr. Vitaliano:** Could not get information on the drive-thru at the CVS on Cherry Street. Was given some data that was compiled at various times because this issue has come up in the past. Basically, it is about 15 cars in the peak hour. Typically, there are only three cars there at the most.

In the past, CVS has had a full service lane and the second, outer lane, has always been a pick-up/drop-off only, whereas, these are two full service lanes. After reviewing studies, site, customer needs, they have found that having two full service drive lanes actually reduces the queue time, whereas having one full service and one partial service does not. This has been backed up by the ITE. CVS over the years has gone to the two full service lanes. By doing that they are finding out that their queues are only about three cars. This is a perception issue by the customer, which makes it convenient for people and allows them to get out of there. When drive-thrus started, it was meant for someone who had sick children in the car or someone who could not make it into the store. It has become a progression of getting people in and out quickly.

In the past CVS has had a full service CVS and the outer lane drop off only. Two full service drive-thru lanes has evolved so that the queue is three cars, which is palatable, which is what they are striving for. This is how CVS has evolved to two full service lanes.

**Mr. Liddy:** Referenced an article from that Sunday's Parade Magazine with regard to San Luis Obispo, California, where the city eliminated drive-thrus because they are deemed unhealthy and adding to the obesity problem in the country.

**Mr. Vetter:** Asked about the catty-corner design of the drive-thru in the rear.

**Mr. Vitaliano:** That design has been in place for about 7-8 years. That corner is for the convenience of the car leaving the drive thru.

**Mr. Liddy:** Asked about the older, white buildings in the back of Dan Perkins and the parking lot behind it. Asked if the buildings would be coming down, which would become a new driveway.

**Mr. Vitaliano:** Showed on the site display that the buildings in question would be coming down, and the present gravel storage area for cars would be landscaped.

**Mme. Chair:** There have been concerns about this application.

**Mr. Sulkis:** Can craft a motion incorporating the items the Board brought up. It would also give him the opportunity to meet with them and get a map and

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description of the easement area.

**Mme. Chair:** Reviewed the items to be part of the motion.

1. Signage on the gutter lane.
2. Striping.
3. Right turn only from the Milford Police Department.
4. Pedestrian Cross Signal.
5. Access way easement.

**Mr. Ferrante:** Intuitively the DOT may be off base, especially on the right turn only exiting. Also, three lanes in the roadway westbound. Not in favor of signage for the gutter lane. Has only seen such signage at Cherry Street.

**Mr. Vetter:** Encouraged everyone to read the traffic report which supports that left and right turn out of the driveway is not creating an unsafe situation. The traffic study highlights the volume that will be added to this area. This is a great application. It improves the landscape and is a good design. He advised the board to look at the number of trips that enter into Schoolhouse Road during the two peak flows that are identified. There are a large number of cars that go in and out. In a peak flow there are a number of cars entering Schoolhouse Road that he is not sure could be managed. He had a hard time figuring out how the number of trips could be absorbed that the traffic plan highlights.

Also asked the Board to consider the 30 or so trips that cars would be making at rush hour for cars making a left, going eastbound on Route 1, entering into that driveway as well. Suggested going through these numbers at the next meeting.

**Mr. Dickman:** Would be reluctant to consider those things Mr. Vetter mentioned in a negative way with regard to this application. Very little this applicant can do about these issues and how they could be resolved in a way that would satisfy the Board members who have spoken about them tonight. Any other business going in this location would have the same situation.

**Mme. Chair:** She would like to see a motion that encompasses all the points raised. Board can vote on each item as it comes up.

Asked if a motion should be drafted listing all the concerns the board has stated. All members appeared to be in agreement.

**E. PROPOSED REGULATION CHANGES - Revised Flood Regulations**

Awaiting the Regional Council of Government's response.

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**F. LIAISON REPORTS - None**

**G. APPROVAL OF MINUTES – (9/21/10)**

**Ms. Rose:** Motion to approve.

**Mr. Vetter:** Second.

All members voted in favor of approving the 9/21/10 minutes.

**H. CHAIR'S REPORT**

**Plan of Conservation and Development:** Very happy that those who attended and spoke did so very well. This was very helpful to the Board.

Asked Mr. Sulkis to help direct the next steps in proceeding with the Plan's review.

**I. STAFF REPORT**

**Mr. Sulkis:** For the next meeting he will have a proposal on how to move forward with the POCD.

**Mr. Vetter:** Made a motion to adjourn the meeting

**Mr. Ferrante:** Seconded.

The meeting adjourned at 8:41 p.m. The next meeting will be a public hearing on October 19, 2010.

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Phyllis Leggett, Board Clerk