

**MINUTES FOR ONE (1) PUBLIC HEARING
OF THE PLANNING & ZONING BOARD
HELD TUESDAY, OCTOBER 21, 2008; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called the meeting of the Planning and Zoning Board to order at 7:30 pm.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

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

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

C. 8-24 APPROVAL

1. **LEASE AGREEMENT** – Request of Mayor James Richetelli, Jr. for CGS 8-24 approval for a Lease Agreement Between the City of Milford and the Graduate Institute, a not-for-profit corporation, for office space in the Parsons Government Center, 70 West River Street, Milford.

Mme. Chair: The first item on the agenda has been withdrawn.

D. CONTINUED PUBLIC HEARING HEARD 9/16/08; closes by 10/21/08

2. **62 WEST MAIN STREET (ZONE RO)** Petition of Beverly Streit-Kefalas and Nicholas Kefalas for a Special Exception and Site Plan Review to convert an existing first floor office to two apartments on Map 65, Block 313, Parcel 13, of which Beverly Streit-Kefalas and Nicholas Kefalas are the owners.

Leo Carroll, Esq., 26 Cherry Street, Milford. Representing the applicants; present tonight with Nicholas Kefalos.

Mme. Chair: The notice states the application is for conversion of the office to two apartments.

Mr. Carroll: That is the original ad. The application has been changed to create one apartment on the first floor, instead of two apartments. The situation was reassessed after the initial public hearing. It was determined via Mr. Goodrich's questioning of the square footage that nonconforming apartments would be created. Wish to create one apartment with two bedrooms. There was confusion concerning square footage due to misinformation in the records of the city assessor's office. This has been corrected. The plans filed today, which the Board members have just received, have all the square footage of the first floor. Asking the Board to accept the change in the application as a reduction in the amount of approval [sic] for a Special Exception in an RO zone.

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Mr. Sulkis had no further comments.

Mr. Goodrich to Staff: Asked why the floor plans were not required to be stamped by a professional, in accordance with Regulation 7.1.2.1.

Mr. Sulkis: Read the regulation. The requirement would be applicable if this was a brand new structure. This is already existing. Everything is already there. That is the difference.

Mr. Carroll: Commented that the custom has been if the building is under 5,000 SF and is an existing building, past history has not required applicants to provide stamped and sealed plans.

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

Anyone to speak in opposition? (No response)

Mr. Bender: The outside of the building cannot change?

Mr. Carroll: The only change will be that Judge Beverly's law office sign will be removed.

Mr. Bender: Repeated "can't change", according to some historical registration?

Mr. Carroll: It is part of the Historical District and there are no plans to change it. Would have to come back before the Board to change anything.

Mr. Sulkis: Added if they are in the River Park Historic District they have to ask approval to change the exterior of the building.

Mr. Bender: Asked if the Board's approval would allow the structure to be turned into an apartment building down the road.

Mr. Sulkis: No. They would need to come back to the Board before they could do anything else to the building. It would be a change of use, which is different from changing the paint color or shutters, for example.

Mr. Goodrich: Might want to look at the regulations to see if the Board wants to allow buildings to be converted to multi-family; two family, single family. Right now it is not allowed in the zone. Not sure if the Board is being appropriate by continuing with this application or taking a look at the regulations.

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Mme. Chair: The Board must look at the application in front of them. This is a Special Exception and there are regulations that allow special exceptions and that is why they are here, so it must be dealt with now. Should the Board decide to, they can look at the regulations at another time.

Declared the public hearing closed.

If the Board is comfortable with it, a motion can be made.

Mr. Liddy: Stated he would prefer to review the plans, which were received tonight and their implications on the RO zone.

Mme. Chair: Stated her policy was not to vote on an application the evening it was received, if a board member makes that request. However, what Mr. Liddy is discussing is something that may not be relevant to the application. Each application must be taken on its own merits. What they are asking in this case is to make a special exception in the RO zone to make an apartment downstairs with no office. Asked what other information would be needed.

Mr. Liddy: What will happen to the RO district moving forward?

Mr. Vetter: The use of this application appears to be fine. The question is that parts of the city end up with nonconforming properties. The city starts to have properties that are nonconforming to the districts that have been created or the Board tries to regulate. That appears to be the question, which can be discussed in the context of a motion.

Mr. Ferrante to Staff: Asked if this was the least expansive request for this site? It will now allow for a two-family house should the present structure be destroyed? It will not allow for an apartment building, etc.?

Mr. Sulkis: The applicant is asking for the least expansive use for this site. If the Board approves what the applicant is asking for, it will never be anything more than what they are requesting, which is two units. If at some point in the future they want something more, just like in any other district, if they want something more or something different or something that does not quite fit into the regulations, the process would be the same. They would be coming back to the Board asking for a new Special Exception.

Ms. Golden: Asked why the Board has a problem moving forward on this right now.

Mr. Goodrich: Discussing whether this is spot zoning or not and what it means not only to this zone, but throughout the city. Not prepared to vote in favor tonight. Would like more time to think about it.

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Mme. Chair: Regarding the spot zoning issue, if the Board was to look at it in that way there would be no reason to have Special Exceptions at all. As long as there is a disagreement, the decision will be put off until the next meeting on Wednesday, November 5th.

E. PUBLIC HEARING; closes by 11/25/08

3. **155 HILL STREET (ZONE CDD-1)** Petition of Clarke Avenue Properties, LLC for approval of a two-lot resubdivision on Map 43, Block 329, Parcel 3, of which Clarke Avenue Properties, LLC is the owner.

Raymond Macaluso, President, Westcott and Mapes, Inc., 142 Temple Street, New Haven, CT. Here on behalf of Clarke Avenue Properties, LLC, for a re-subdivision of its property located at 155 Hill Street, which is on the corner of Clark Street and Hill Street, the old Robert Shaw building. Mr. Wittek is one of the principals of Clarke Avenue Properties. The property was purchased in the mid-90s. There has been a first cut and subdivision of the property. Here tonight for a re-subdivision of the existing property.

Due to its proximity to Milford Hospital, there is a lot of interest in this property by medical professionals. There is no site plan because there is no particular plan for the property at this time. The submitted plan meets all the requirements of the CDD-1 zone. There are beautiful existing trees along Hill Street. There would be adequate parking for the existing building, half of which is being occupied at this time. If resubdivision is granted, lot 2 would stand on its own merit. Should a plan for development of that lot be made, such application would come before the Board. There were no departmental approvals required for the purpose of the resubdivision.

Mme. Chair to Staff: Will there be a contribution to the Open Space Fund?

Mr. Sulkis: An appraisal of the property is in process. When the appraisal is accepted there will be a contribution to the open space fund.

Mr. Goodrich: The Board approved a subdivision a couple of years ago. It was abandoned because there were problems on the site.

Mr. Macaluso: The applicant came in approximately three years ago, before the CDD-1 zone was changed in this area for residential. Robert Shaw had some flumes down in this area and there was a clean up area, which is more towards the southern end. There are no effects in this area or anywhere else. Everything has been cleaned up. DEP has signed off on this and it is an ongoing monitoring program between DEP and Robert Shaw itself. Mr. Wittek, as the owner, has nothing to do with this. Robert Shaw is taking care of all the cleanup.

Mr. Goodrich: Said the Board had previously approved the subdivision for this property. Wanted to know if it was in the same shape or not.

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Mr. Macaluso: Stated the Board had not approved the subdivision because of its concern about the contamination below. The application was for a residential subdivision and was subsequently withdrawn because of the Board's concern about the contamination. Originally there was a house on the property, which has been in existence since the 50s.

Mr. Liddy: This is an application for a resubdivision. Asked what the previous plan was and how the new plan will be.

Mr. Macaluso: Via the displayed diagram showed the area originally subdivided and the proposed area, which is being applied for as another subdivision.

Mme. Chair: Asked that every attempt be made to preserve the existing trees along the property's border.

Mr. Macaluso: Intent is to keep all the trees along Hill Street, however, it depends on the application for the development of the property that will eventually come before the Board.

Mr. Ferrante: Questioned the potential changes that could be made to the development of the property upon approval of the subdivision.

Mr. Sulkis: Stated anyone who does anything with the property in the future has to come in for a site plan review, at the very minimum.

Mrs. Patterson: Asked if a part of the parcel went into the waters and involved the DEP.

Mr. Macaluso: This has been ongoing for the last 15 years. Robert Shaw was under order to clean up the property. Robert Shaw makes thermostats. Robert Shaw occupied a back piece of the property when it was acquired by Mr. Wittek. He could not lease that part of the property until it was cleaned up. Robert Shaw was under order by DEP and they have now cleaned up everything, which DEP has now approved and signed off on. Mr. Wittek is now able to lease out that portion of the property.

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

Anyone to speak in opposition? (No response)

Declared the public hearing closed.

Ms. Rose: Made a motion to approve the proposed subdivision as presented.

Mr. Goodrich: Second.

All members voted in favor. The motion passed unanimously.

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F. NEW BUSINESS

4. **255 BOSTON POST ROAD (ZONE CDD-1)** Petition of Anela Incorporated for a Site Plan Review to do building and parking lot renovations at Gusto's Restaurant on Map 53, Block 305, Parcel 5, of which Mavuli, LLC is the owner.

Raymond Macaluso, President, Westcott & Mapes, Inc., 142 Temple Street, New Haven, CT. Here on behalf of Mavuli LLC, the owner of Gusto's Restaurant. Also present are: Mr. and Mrs. Ricardo Mavuli, owners of Gusto's, John Wicko, the architect and Mark Davis, Project Engineer. Application is for a site plan review for building and parking lot renovations of Gusto's Restaurant. Would like to renovate and continue the existing character of the restaurant.

Mr. Mavuli had purchased a portion of the lot on Clark Street, in order to obtain additional parking spaces for his restaurant. Approximately four years ago there had been a building that was converted into an office building, which was approved by the Board. The building is occupied during the day, which would not have an impact on the parking.

All requirements for the CDD-1 zone are complied with, except under section 5.1.4 of the parking regulations. 105 spaces are required. Only 74 will be provided. Would like to do valet parking, which will occupy 19 spaces. Applicant is requesting a waiver for parking. The restaurant is in an old building, formerly the Tory Brook Inn which had been in existence for a very long time.

The second waiver being requested is for the landscaping under section 5.14.6 for the 10-foot buffer, which cannot be provided in order to maximize the parking. Via the display, it was shown that there is all asphalt at both residences on both sides. There is no buffer. The Mavulis have decorated the patio nicely with trees and hanging plants.

One of the restaurant's two entrances and exits at the Post Road will be eliminated. There will be one entrance and exit closer to the Dunkin' Donuts area. There will be handicapped parking and access, which was shown on the display. There will be an entrance and exit on West Clark Street and one way going through the new parking lot and exiting off Clark Street. All the departments' reviews have been received and have been addressed where necessary and at this time all the necessary City departments have approved the project.

Not expanding the building. Keeping the same footprint. Not increasing the number of tables or seating capacity. Trying to increase the features of the building and increase the parking. Adding 19 spaces for valet and 13 spaces are at the parcel next door that had been purchased by Mr. Mavuli.

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John Wicko, Architect, 50 Broad Street, Milford, Project Architect. Improving landscaping in areas where this can be done by adding shrubs and other types of plantings in all areas where the areas are sparsely planted. The existing deck has some weird angles. When the three-season porch is built some of those angles will be removed leaving room for planting beds that will be filled in to enhance the side entrance. One of the purposes of making the renovations is to give the building more presence on the Post Road and to have an impact on people coming off the highway and traveling along the Post Road. A curb cut at the Post Road entrance will be removed to get a sense of a walking area to get to the door.

Ivy will be planted at the existing retaining wall at West Clark Street. Arborvitae are proposed to screen the entrance where the wood for the brick oven is stored. Adding a walk-in cooler in that area. Arborvitae will also augment the side yard where there is an air conditioner compressor and will improve the walkway there. Attempting to spruce up the area, which is so visible. The rest of the landscaping will remain. At the new parking lot there will be red maple with some evergreen shrubs in the shadow of those trees. This satisfies the island parking requirements. The refuse area is screened with arborvitae and existing pine trees. On page C-1 of the demolition plan, there is a line of pine trees that are going to be removed. Fences are proposed where the pine trees are and down the side yards of each side of the parking lot.

Mr. Wicko, via a rendering of the building on display, described the improvements to the building. Intent is to improve the architectural appearance of the building while keeping the character of what is there and has been known as Gusto's Restaurant. The brick red solarium will be at the same location as the deck. Parking will remain underneath. The exposed steel columns will be more decorative. The entry off the Post Road will house the circulation stair. There will be a Japanese evergreen off the side entrance to give it more distinction.

Plans depicting some changes the board had not previously received were distributed and stamped into the record. Mr. Wicko described the architectural and use changes that are proposed, which will be accomplished in two phases. The seating area will not be increased.

Mr. Macaluso: Recap: The intent is not to change the occupancy so that the sewer does not have to increase. The seating will actually be less than the 188 seating presently in use. Adding more parking with the other lot and the proposed valet parking.

Mme. Chair: Asking for a waiver of 31 parking spaces?

Mr. Macaluso: Yes.

Mr. Sulkis: It is improving the situation that is already there. Getting more parking and decreasing the occupancy.

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Mr. Bender: The Tree Commission recommended a traffic flow?

Mr. Macaluso: Yes.

Mr. Bender: This was previously approved with less parking spaces?

Mr. Macaluso: Yes.

Mr. Liddy: Asked why the row of evergreen trees is to be taken down.

Mr. Wicko: This is necessary to maximize the parking and to be as close to the parking requirements as possible. The trees are just about hanging in and are not in good condition. Improving the overall site for safety for fire apparatus access and flow of traffic.

Mr. Liddy: Also asking for a waiver for landscaping?

Mr. Macaluso: According to the regulations a waiver is needed for the buffer between the two properties. This area does not abut residential. Also putting up a 6-foot high decorative vinyl fence in this area.

Mme. Chair: Reviewed the Tree Commission's suggestions for trees. There is a lot of bituminous surface on this site.

Mr. Wicko: Stated the Tree Commission's report referred to the new parking lot plans. The whole site has a number of shade trees.

Ricardo Mavuli, 255 Boston Post Road, Milford. If a tree is placed where the Tree Commission suggests, it will obstruct the sign for the people coming from West Clark Street.

Mme. Chair: Perhaps smaller plantings could be planted.

Mr. Sulkis: Clarified that the Tree Commission's recommendation of 15 shade trees was for the entire property. What is being presented tonight is just for the area that is being changed, which would mean three trees.

Mr. Ferrante: What is the existing square footage of the building? Why is there a need for more parking with fewer diners?

Mr. Wicko: 5574 sf. Proposed is 7,375 sf, 1800 sf, which will be the new portion.

Mr. Ferrante: How can there be less people with an increase of 1800 sf?

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Mr. Wicko: The addition is mostly to the stair hall, which does not include the dining area. Amending other areas that do not affect the dining area. The lower banquet room will not be used for dining. It will be used for storage and a wine cellar. 22 x 25' or 225 sf.

Mr. Macaluso: 188 seats presently. Proposing 179 seats.

Mr. Ferrante: Asked about the house that is being surrounded by the restaurant.

Mr. Macaluso: The house that has the parking lot on one side will be buffered with the fence and smaller plantings. The house is in the CDD-1 zone. The restaurant building has been there since the 1700s, the house has been there since the early 50s. None of the houses in the area are opposed to what Mr. Mavuli is proposing.

Mr. Sulkis: The home that is there could not be built in the same place today because it is now in a CDD-1 zone. It would require a Special Exception.

Mrs. Patterson: The entrance off Clark Street was blocked by a car in the driveway when she drove by.

Mr. Macaluso: Explained how people from Dunkin Donuts were parking in his lot and he is attempting to stop people from entering his property.

Mrs. Patterson: People speed there. Should be a sign to slow down for pedestrians or something to that effect.

Mr. Mavuli: Stated he would place a sign there.

Mr. Liddy: Wanted to know if there was an alternative to removing the pine trees.

Mr. Macaluso: The Fire Department required that this area be kept open for their purposes.

Mr. Wicko: The trees are old and not in good condition.

Mr. Liddy: Asked if a more decorative style fence other than the proposed stockade style fence could be utilized.

Mr. Macaluso: Stated this could be done.

Mr. Ferrante: Asked what notice were the adjoining neighbors given.

Mr. Sulkis: This is for a site plan review. There is no responsibility on anyone's part to notify the neighbors of the applicant's intentions.

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Mr. Wicko: The neighbors were advised by certified letters as to what was proposed and had no objections. This was required through the demolition permit.

Ms. Rose: Asked where overflow parking has been going.

Mr. Macaluso: Anywhere it can, to any neighboring lot.

Mme. Chair: The question would seem to be to weigh between adding the tree or losing some parking.

Ms. Shaw: Opts for the additional parking as presented and not to clog up neighboring businesses.

Mrs. Patterson: For safety's sake it is necessary to keep the additional parking on the site rather than have people park illegally and in some cases cross the Post Road.

Ellen Mavuli, 18 Aberdeen Way, Milford. Sent a letter to the neighbors advising them of the demolition.

Mr. Vetter: Asked if this matter could be turned into a public hearing.

Mme. Chair: Not at this point.

Mr. Sulkis: This is a site plan review. Can only change to a public hearing in certain other instances, such as a large subdivision. Clarified to the Board that the two waivers being requested are the items for consideration by the Board. If the applicant was not asking for waivers, the Board would not be seeing this application.

Mr. Bender: The applicants have gone to a lot of trouble and have presented a project that is an improvement in almost every area.

The members agreed that making improvements to a restaurant at this difficult economic time was very commendable and an improvement to the property in almost every respect.

Mr. Goodrich: Motion to approve with the waivers as requested:

Waivers: Parking spaces. Landscaping within the parking area..

Mrs. Golden: Second.

Mr. Vetter: Asked not to vote on this tonight.

Mr. Goodrich: Withdrew his motion.

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Mrs. Golden: Withdrew her second.

Mr. Goodrich: Suggested that Staff write a motion incorporating the waivers and other conditions mentioned by the board members.

Mme. Chair: Asked to include that an attempt be made to work with the Tree Commission to see if there is a possibility of getting a couple of shade trees added and perhaps another tree on the Post Road.

Mrs. Patterson: Asked for a safety sign in the driveway from Clark Street for pedestrians walking at night at or near the site.

Mme. Chair: Staff will prepare a motion noting the conditions and will include the change in the style of the proposed fence.

G. LIAISON REPORTS

Mr. Ferrante: He and the Chair met with the Conservation Commission. Most of what they are doing will not impact the Board. They are working on how to interface with other commissions and boards in the City. They are advisory. They have requested copies of the POCD and regulations.

Mr. Goodrich: There is a budget of \$10,000 designated for the taping and televising all board meetings.

Gulf Beach area sidewalks. There are almost continuous sidewalks on the inland side; not along the water side.

H. APPROVAL OF MINUTES – (10/7/08)

Mr. Bender: Motion to approve.

Mr. Goodrich: Second.

All members voted in favor to approve the minutes as recorded.

I. CHAIR'S REPORT

With regard to the withdrawn 8-24 proposal scheduled for tonight's meeting, she spoke to the City Attorney today. A new state statute came into effect where any municipal property that is to be leased, bought or transferred, will require a separate public hearing by the Board of Aldermen.

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Reminded the Board there is another Land Use seminar coming up in November. The Planning and Zoning Office will reimburse those members who attend. The cost is \$20.00.

J. STAFF REPORT

Mr. Sulkis: The board meetings will be televised starting the next meeting.

Mr. Liddy: Asked under section 5.2.2.2 to look into a lighting violation of a billboard on Daniel Street.

Mr. Bender: Motion to adjourn.

Ms. Rose: Second.

The meeting adjourned at 9:30 p.m.

Phyllis Leggett, Board Clerk