

**MINUTES FOR THE PLANNING & ZONING BOARD
HELD WEDNESDAY, NOVEMBER 4, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the November 4, 2009 meeting of the Planning and Zoning Board at 7:27 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Frank Goodrich, Mark Bender, Janet Golden, Kim Rose, Kevin Liddy, Susan Shaw, Jeanne Cervin, Chair, Greg Vetter (7:33)

Not Present: Victor Ferrante, KathyLynn Patterson

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

Mme. Chair: Kathy Patterson is at home with her family due to the death of her father. Victor Ferrante is celebrating his 30th wedding anniversary.

C. 8-24 APPROVAL

**1. EXTENSION AND RENEWAL – OPERATING AGREEMENT
CITY OF MILFORD AND THE AQUA JETS SWIM CLUB, INC.**

Request by Mayor James Richetelli for Section 8-24 approval under Connecticut General Statutes for the Extension and renewal of the Operating Agreement between the City of Milford and The Aqua Jets Swim Club, Inc. for the McCann Natatorium Pool located on City property at 70 Park Circle on the former Milford Academy site.

Mme. Chair: Congratulated the Mayor upon his re-election and wished him well.

Mayor Richetelli: Thanked the Chair and stated he was asking the Board's 8-24 approval for the extension of the Operating Agreement for the McCann Natatorium, which is located at the Milford Academy Community Campus.

Background: The City purchased certain properties at the former Milford Academy site in 1999, including the McCann Natatorium. The City entered into a ten year agreement with Mr. and Mrs. John McCann who were the benefactors to Milford Academy and whose family paid for the construction of the natatorium several years before. The agreement allowed the McCanns to operate the pool and paid a rent for the operation of their club, which is the Aqua Jets Swim Club, Inc. In exchange, they also had certain supervisory and administrative responsibilities at the pool. The relationship over the past ten years has been a good one. The McCanns have requested a five-year renewal and after

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consultation with the Milford Recreation Department and the Public Works Department and in negotiations with the attorneys for the City and for the McCanns, an agreement was reached which is now before the Board. It is virtually the same agreement that has been in effect for the last ten years.

Ms. Shaw: Asked if the \$300 noted on the lease was a monthly deduction taken by the McCanns.

Mayor Richetelli: The amount varies from month to month and depends on the number of hours that the McCanns put into maintaining the vicinity of the pool. If there is a snow storm, the pool opens up early in the morning and is available for open swim and many senior citizens in particular use it. Oftentimes, Mr. McCann will shovel the snow around the property before Public Works gets there. That is the type of administrative and supervisory services for which the McCanns can ask reimbursement, or deduct from their rent. The amount varies each month.

Mr. Bender: Made a motion to approve the request of Mayor Richetelli for Section 8-24 approval to extend and renew the operating agreement between the City of Milford and the Aqua Jets Swim Club, Inc. for the McCann Natatorium Pool located on City property at 70 Park Circle on the former Milford Academy site.

Mr. Goodrich: Second.

All members voted in favor. The motion passed unanimously.

2. PUBLIC HEARING HELD 10/20/09; exp. 12/24/09

PROPOSED TEXT AMENDMENTS TO ZONING REGULATIONS

1. **Sec. 3.17.4.1 Minimum Lot Requirements** – Change from 2,000 SF to 4,000 SF for two-family dwellings.

Mme. Chair: There had been little discussion at the public hearing on this proposed regulation change.

Mr. Goodrich: Stated he had mentioned over the years that a two-family house on 2,000 SF lot did not make sense. In favor of this regulation change.

Mr. Vetter: Asked if this change was partially in response to some of the 2,000 SF challenges the Board had earlier in the year. He did not remember the intent of this change.

Mme. Chair: This has been an ongoing concern for at least two years.

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Mr. Goodrich: The way the regulation reads now, on a 5,000 SF lot, five houses could be built. On a 2,000 SF lot you could put a two-family house. Too dense.

Ms. Rose: Made a motion to accept the proposed text amendments to zoning regulation Section 3.17.4.1, minimum lot requirement change from 2000 SF to 4000 SF for two-family dwellings.

Mrs. Golden: Second.

All members voted in favor. The motion passed unanimously.

2. **Sec. 3.19.5.4 (New) Prohibited Uses** – No junkyard; or outside storage yards shall be permitted.

Mme. Chair: This was to correct an oversight in the CDD-4 zone, where it had not been previously included. It provoked some discussion at the public hearing. There had been concern about the percentage of space that was allowed for a junkyard. Believes the public misread this.

Mr. Sulkis: There seemed to be some confusion over that change because it speaks to the principal use. The outside accessory uses would still be allowed and would be part of the Special Permit application. By changing this language, the Board is making it clear it is use for the principal use outside storage and junkyards are not permitted. This matches the other CDD zones.

Mr. Vetter: Storage yard is not defined in the glossary. Could there be confusion as to how this could be interpreted? Should it be clarified?

Mr. Sulkis: This became an issue in this zone when properties turned into junkyards. The request to improve this language and take care of the oversight of having left it out of the CDD-4 zone, came from the zoning enforcement officer, who was having difficulties with some properties in this zone.

Mme. Chair: Stated Mr. Lema brought up that this change was in conflict with 3.19.3.2. Asked if it has been clarified that it is not in conflict with that regulation.

Mr. Sulkis: That is accessory storage. The regulation change speaks to the principal use, not the accessory use.

Ms. Shaw: Having clarified the concerns of Mr. Lema at the public hearing, made a motion to approve text amendment change to Section 3.19.5.4 under Prohibited Uses, no junkyard or outside storage yard shall be permitted.

Ms. Rose: Second.

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Mr. Liddy to Staff: Asked if Mr. Grant's suggestion of clarifying the regulation to include the word "principal" should be reviewed.

Mr. Sulkis: When the legal department reviewed the regulation change they did not have an issue with it. The language is being changed to conform to the other sections of the book and there has not been an interpretation problem to date. There is one CDD zone that permits junkyards and that is where the City's junkyard is located.

All members voted in favor. The motion passed unanimously.

3. **Sec. 4.1.7.4 (New) Fences and Walls** - Allowance of an eight foot chain link or similar fence to be erected in an HDD, ID and LI zones, upon obtaining a zoning permit.

Mme. Chair: This is very straightforward and there were no objections to it.

Ms. Rose: Motion to approve Sec. 4.1.7.4 (New) Fences and Walls. Allowance of an eight foot chain link or similar fence to be erected in an HDD, ID and LI zones, upon obtaining a zoning permit.

Mr. Goodrich: Second.

All members voted in favor. The motion passed unanimously.

4. **Sec. 5.1.4 Off-Street Parking Requirements** – Refers to parking space changes and tandem parking prohibition in two family and multiple family dwellings; parking space changes for some commercial uses.

Mme. Chair: There had been a lot of discussion concerning this change at the public hearing.

Ms. Rose: Stated the intentions of the Board in changing this regulation. It was her opinion that a goal of this change was to create some guest parking in areas where condos are being constructed and there is not enough parking. It was also mentioned that some properties would be affected. That would be the properties that are being developed. However, it is the Board's responsibility to protect the character of a neighborhood and protect its citizens. By passing this regulation change it would affect more people than by not passing it.

Mme. Chair: Mentioned Mr. Lema's concern was that many nonconforming properties would be created and that is always a problem, but this would not be a reason to not approve the change. Mr. Oliver brought up the matter of creating more impervious areas on a lot to add more parking areas. Thinks the primary objective of this change overrides this concern.

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Mr. Sulkis: The only time this comes up is when the 2,000 SF lots are looked at, where there are small multi-family units squeezed on one lot. In multi-family situations there is no control over people parked behind one another. Parking that is required is not being provided. This situation could also occur in the downtown district and as it already exists, it is not an issue.

Mr. Bender: Asked if it is considered tandem parking when a car is parked in the garage and a car is parked behind the garage.

Mme. Chair: Tandem is being defined and that is what this is all about.

Mr. Sulkis: The Board came up with the definition of tandem parking as being one car parked in front of another car. Further definition has not been made.

Mr. Sulkis gave scenarios where garage parking or not parking would come into play. The projects that come before the Board are usually Special Exceptions where there is high density use and parking is limited.

Board members discussed how this change would affect one and two-family dwellings, especially near the water as well as nonconforming lots.

Mr. Sulkis: This will not affect a single family home and it will only apply to new construction.

Ms. Rose: Asked whether a recently approved condominium complex on would be subject to this proposed regulation.

Mr. Sulkis: Yes.

Mr. Liddy: Referenced Mr. Lema's analogy as to how this regulation would affect new construction of two and three bedroom units because the required parking could not be provided and is that the Board's intent.

Mr. Sulkis: Explained how the regulation would affect the number of bedrooms per unit and the parking that will be required.

Mme. Chair: Referred to Mr. Oliver's comments on health clubs and his recommendation of one space for each 60 feet and that was based on a fire code that required 50 feet. Was not sure what he had been referring to.

Mr. Sulkis: The 50 SF came from Planning and Zoning's experience with health club applications and it has to be determined how much space per square foot of either equipment or classes held, that is the number of parking spaces that is established, i.e. Fitness Edge. The growth of classes in health clubs has created a huge parking problem because it was not anticipated under the old regulations.

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Mr. Vetter: Noted different tandem parking situations and stated the garage should not be counted as a parking space. By doing this, the two family homes in many areas of the city would not be negatively affected.

Mme. Chair: Stated counting the garage as a parking space was the point of the regulation change. Need to have a definition for tandem parking and the fire code regulation.

Ms. Harrigan: Gave the definition as she remembered it: "One car parked in front of another, whether open or enclosed."

Board members continued to discuss the tandem parking possibilities in different property situations, i.e. two family, condominium, shared driveways, etc.

Ms. Harrigan: Many of these situations involve site plan reviews which come before the Board. There may be room for flexibility with two family dwellings.

Mr. Sulkis: Suggested for two family houses coming up with some other language that will provide parking that is accessible. It may be in tandem and many not depending on the characteristics of the site.

Ms. Harrigan: Suggested adding a section at the end that says, "Tandem Parking - All requests for tandem parking shall require a Special Exception before the Planning Board." In that way the Board looks at each site to determine whether or not it works with its parking requirements, rather than have an outright prohibition. This area needs some flexibility.

Mme Chair: Agreed and suggested this regulation be tabled until it could be further defined..

Mr. Goodrich: Motion to table.

Mr. Liddy: Second.

Mr. Bender: Asked that the Board receive this information before the next meeting so it does not have to be discussed at length at the next meeting.

Mr. Sulkis: Can accomplish this by the next meeting. Summarized the Board's wish list for this regulation change:

To eliminate the wording that states tandem parking is prohibited and come up with a new section that gives the Board flexibility that on a case by case basis it can approve tandem parking, if the site plan merits it. Also, to include in the definition for the parking (for multi-family dwellings) that garages, if provided, will not be counted toward meeting the parking requirement.

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Incorporating carports in the verbiage was discussed.

All members voted in favor to table the regulation change.

5. **Sec. 5.18 (New) Route One Access Easement** – Planning and Zoning Board may require an access easement (for certain permit applications) to a neighboring property along Route One to facilitate vehicular traffic.

Mme. Chair: This item also brought about a lot of discussion.

Mr. Bender: Mr. Lema had serious concerns about the Board's legality in putting this regulation into effect and had distributed a regulation passed by the Town of Orange that deals with this situation.

Mr. Sulkis: Said he thought the word "easement" created a problem because the word has a particular legal meaning. All the Board is asking for is to have the ability to have interconnectivity between the two sites, if it is warranted. Although the intent is the same the Orange regulation is different in that they leave that decision up to the fire marshal because they look at it as a safety

issue, not a planning issue. If the word "easement" is substituted with "interconnecting driveways", that would work.

He stated there are properties, such as Pilgrim Furniture, where an access easement was created where if in the future one of the neighboring properties gets developed, they have an area where one can pass from one property to another. This has already been approved by the Board.

Mr. Vetter: Asked if there are businesses that might lose needed parking spaces by having this interconnecting driveway.

Mr. Sulkis: There is flexibility built in for such cases.

Ms. Rose: Made the motion to accept a new regulation, Section 5.18, Route One Access Easement, the Planning and Zoning Board may require an interconnecting driveway access for certain permit applications to a neighboring property along Route One to facilitate vehicular traffic change.

Mrs. Golden: Second.

Mr. Liddy: Clarified that the actual wording of the new regulation, the word "easement" will be removed and be replaced with "interconnecting driveway".

Mme. Chair: Correct.

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Mr. Bender: Asked if Route One was the only area to which this regulation would apply.

Mr. Sulkis: At this time. In the future Cherry Street, Naugatuck Avenue and Bridgeport Avenue may be considered at the Board's discretion.

All members voted in favor.

6. **Sec. 7.12 Site Plan Elements** - Clarification of requirements when applying for site plan reviews.

Mme. Chair: This is for new construction and is in addition to an already existing regulation.

The part of the regulation change that brought up some controversy was adding a current property survey to A-2 standards and that is followed by the addition of a proposed site development plan based on the current certified survey.

Mr. Goodrich: Has trouble reading the five inch address numbers from the distance of the road. Made a suggestion to add "must be legible from the street" under numeric address height.

Mme. Chair: There was controversy over this regulation, especially using the word "current". Asked Mr. Sulkis for his definition current.

Mr. Sulkis: When someone is coming before the Board members for a site plan, they want the best information possible in front of them to make the best informed decision. An applicant can argue the survey is three years old and nothing has changed. Generally, current has been applied as being up to date and new. If it is an old survey, the surveyor can re stamp it and give it a new date after he has eyeballed the property. The Board needs to know that when a site plan is being brought to it, that the information is accurate.

Mr. Bender: A surveyor will not eyeball a 20-year old survey and stamp it. He will charge for another survey.

Mme. Chair: Asked if GIS data could be used.

Mme. Harrigan: GIS is a wonderful reference tool but it does not replace a survey by a licensed surveyor. The GIS data is only as good as how frequently someone is willing to purchase that aerial photography. The aerial photography from the City is from 2006. If the program was new and replaced every year it would as good as every 12 months, but there it could not replace an actual survey.

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Mr. Liddy: Asked if the cost of a survey was actually \$5000.

Mr. Sulkis: The cost is dependent on many things; residential, commercial, the individual surveyor's charge, a house on the water, etc.

When a zoning permit is issued, in some instances a survey may be required, but most often not. Surveys have always been required under site plan elements. Now the regulation has been made very specific.

There was discussion regarding the need for a survey if there was a change of use with no change to the exterior of the building, i.e. reconfiguring the parking area.

Ms. Rose stated it had been proposed that this judgment as to a survey requirement be made at the discretion of Staff. It was not a good idea at this time to leave the decision to the sole discretion of the City Planner, for this particular regulation.

Ms. Shaw: Inquired as to the number of surveys that came in for review that were not to A-2 standards.

Mr. Sulkis: Some, on occasion, but not many.

Ms. Shaw: Made a motion to approve the proposed text amendment to Section 7.1.2 Site Plan Elements. Applications submitted shall include a description of all proposed uses including all intended operations, equipment and material; and shall be accompanied by a current property survey to A-2 standards prepared by a Connecticut licensed land surveyor, drawn to scale of not less than one inch equals 100 feet in size, not to exceed 24" x 36" and a proposed Site Development Plan based on the current certified survey showing the proposal and all buildings on adjacent lots within 100 feet of the lot lines of the subject lot. In addition to the Survey and Site Development Plan, the application shall also be accompanied by floor and elevation plans for alterations of all existing structures and for proposed structures. All elevations must show location detail of street number to be utilized by the building. Such numbers shall not be located on any door nor shall any number be less than 5 inches tall. Signs, specifications for building construction and materials proposed for flood-proofing, where applicable, and any such other plans as may be required to fully present the proposal, including the following information where applicable.

Mr. Vetter: Second.

Mr. Goodrich: Proposed an amendment to add the words "and must be legible from the street", so that the sentence regarding the size of address numbers read as follows: "Such numbers shall not be located on any door nor shall any number be less than 5 inches tall ***and must be legible from the street***".

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Mr. Liddy: Second.

All members voted in favor of the amendment.

All members voted in favor of approving the regulation change.

7. **Sec. 8.3.6 Principal Building or Use** – A-2 property survey will be required.

Mme. Chair: Suggested adding the word “current”.

Mr. Sulkis: Agreed.

Mme. Chair: There had been discussion regarding requiring an A-2 survey for this regulation as well. Confused by the last sentence which indicated which stated, “This requirement shall be met when deemed necessary by the Zoning Enforcement Officer for any other building structure or use”.

Ms. Harrigan: Clarified that when a current A-2 survey is requested, is when a brand new single family home is constructed and that serves as the basis for the P & Z office’s record keeping in terms of any future additions, decks, pools, or any other site improvements that are made that might require a zoning permit. Generally, the request is usually only made for the principal structure when it is built.

Ms. Shaw: Questioned the difference between a “site development plan” and a “plot plan”.

Mr. Sulkis: A majority of applications for zoning permits, which are done over the counter, require plot plans for additions, sheds, decks, etc.

Mr. Vetter: Gave the example, if a deck was being built at the back of a house, would an A-2 survey be required?

Ms. Harrigan: There are a couple of scenarios for this situation: 1) Draw a to scale plot plan that show the property dimensions of the lot; the setbacks of the primary structure; and the deck is scaled in based on that information. That is generally sufficient for such an addition to a single family house. These are for permits issued in-house, over-the-counter. 2) If it was for work done without permits, that is where a survey might be required just to make sure.

Mr. Sulkis: Gave some instances where a homeowner might be required to obtain a survey: Something is built illegally; something is going to be brand new; something is going to be built that is very close to a neighbor or a property line where inches count.

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Ms. Rose: Made the motion to approve the regulation text change Section 8.3.6 Principal Building or Use - If the Zoning Permit sought is for a principal building or use, all dimensions shown on the plot plan relating to the location and size of the lot to be built upon ***shall be submitted on a current A-2*** property survey prepared by a Land Surveyor and/or Professional Engineer licensed in the State of Connecticut. This requirement shall be met when deemed necessary by the Zoning Enforcement Officer for any building, structure or use. At the discretion of the Zoning Enforcement officer, the lot shall be staked out on the ground before construction is started.

Mr. Goodrich: Second.

All members voted in favor.

8. **Definition of BUILDING, ACCESSORY** – Proposed text change A building which is clearly incidental or subordinate customarily in connection and located on the same lot with the principal building or use; and the ***square*** footage (***footprint***) and floor area of such accessory building does not exceed 50% of same of the principal building (***footprint***). ***Decks, open porches or stairs shall not be included in determining the 50%.***

Mme. Chair: There was a lot of discussion on this but only minor corrections were being proposed.

Mr. Liddy: Asked Mr. Sulkis for his comments on Mr. Grant's comments made at the public hearing.

Mr. Sulkis: There has never been an issue with the definition. Not trying to change it. There was the need to change it from cubic footage to square footage. The way it has been written out is the way it has always been interpreted.

Mme. Chair: Thought there was disagreement with the definition previously as it stands and if that needs to be changed in the future, it can be addressed at a later time.

Ms. Shaw: Asked Staff to explain the examples posed by Mr. Grant with regard to this definition change.

Mr. Sulkis: Responded there is no "typical" home or square footage in Milford. All are varied. The way this regulation would now read is how each application has been put into effect. The last sentence is only meant to clarify; it is not a change from what is currently enacted in granting permits.

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Ms. Shaw: Made a motion to approve to approve Building Accessory – A building which is clearly incidental or subordinate customarily in connection and located on the same lot with the principal building or use; and the **square** footage (**footprint**) and floor area of such accessory building does not exceed 50% of same of the principal building (**footprint**). ***Decks, open porches or stairs shall not be included in determining the 50%.***

Mr. Goodrich: Second.

All members voted in favor.

The approved regulation changes will become effective November 23, 2009.

D. NEW BUSINESS

3. **YALE AVENUE – LYNN ACRES RE-SUBDIVISION** – Request for partial release of subdivision bond in the amount of \$231,457.45 in accordance with the memo received from Bruce C. Kolwicz, Public Works Director, dated October 21, 2009.

The Board established that the bond reduction would be in the amount of \$231,457.45, leaving a maintenance balance of \$95,927.05.

Mr. Bender noted that the Board was acting solely on the recommendation of the Public Works Director.

Mr. Goodrich: Motion to approve.

Ms. Rose: Second.

All members voted in favor.

A recess was taken from 9:12 to 9:25 pm

[Janet Golden left at 9:12]

E. PROPOSED SIGN REGULATION CHANGES

Mme. Chair: Very pleased with the regulations. Praised Mrs. Harrigan's work on this project.

Board discussed the proposed sign regulation changes and they will be passed along to the legal department and other necessary agencies, after which time the public hearing will be scheduled. This may not occur until the beginning of next year.

[Ms. Rose left the meeting at 9:51 pm]

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F. LIAISON REPORTS

Ms. Shaw: The Economic Development Commission will look into LEEDS for municipal buildings.

G. APPROVAL OF MINUTES – (10/20/09)

Mr. Bender: Motion to approve.

Mr. Liddy: Second.

All members voted in favor.

H. CHAIR'S REPORT

Mme. Chair: Congratulated the members who were reelected and congratulated Frank Goodrich upon his election to the Board of Aldermen.

Mr. Liddy: Asked in view of Linda Stock being elected as City Clerk, would her position be filled?

Mr. Sulkis: Stated he was putting in a requisition for a new zoning enforcement officer.

Mme. Chair: Stated people will be attending the Board of Aldermen meeting on November 9th to voice their concern about the action that has been taken on the new Land Use Department.

I. STAFF REPORT

Mr. Sulkis: Informed the Board that there is legal action against the Board for the decision they rendered on the applications of 990 Naugatuck Avenue and 1770 Boston Post Road.

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

Mr. Bender: Second.

The meeting adjourned at 10:25 p.m.

Phyllis Leggett, Board Clerk