

**MINUTES FOR THE PLANNING & ZONING BOARD MEETING
HELD WEDNESDAY, NOVEMBER 7, 2012; AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Mark Bender called to order the November 7th meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

MEMBERS PRESENT: Ward Willis, Jeanne Cervin, Benjamin Gettinger, Edward Mead (Vice Chair); Daniel Rindos, Thomas Nichol, Mark Bender, Chair.

STAFF: Emmeline Harrigan, City Planner; Phyllis Leggett, Board Clerk

NOT PRESENT: Michael Casey, Joseph DellaMonica, Jr., John L. Grant, David Sulkis, City Planner

Mr. Mead: Made a motion to adjourn into Executive Session with Ms. Harrigan, Assistant City Planner and Counsel, Matthew Woods.

C. EXECUTIVE SESSION – Discussion concerning Antoinette Voll, et al. v. Planning and Zoning Board of the City of Milford.

The Board went into executive session at 7:32 p.m.

Mr. Mead: Made a motion for the Board to come out of Executive Session at 7:56 p.m.

Mr. Rindos: Second.

All members voted to come out of Executive Session.

D. JOCELYN MATHIASSEN, Director, DPLU; EMMELINE HARRIGAN, Assistant City Planner - Update on the effect of Storm Sandy on the City of Milford.

Chairman Bender: Assistant City Planner Emmeline Harrigan will update the Board.

Ms. Harrigan: A week after the storm the Department is trying to do damage assessment in terms of the results of the storm. From looking at the kind of damage Irene had and the kind of damage Sandy had, it seems like there are more properties that were damaged. More properties were damaged by Storm Sandy. Some of the structures that had been damaged in Irene have been redamaged by the newest storm. Trying to work with the homeowners to determine their damage assessments and figure out what that means for people in terms of whether they are able to repair; whether they need to make their structures flood compliant. One of the most important things that is being done is one week after the storm is trying to make sure that people's electrical systems are safe. Once salt water hits an electrical system, it corrodes all the grounds and there is a very high potential for fire. The Fire Department has gone through neighborhoods to determine where salt water had compromised the electrical systems and the Building Inspection Division is trying to do inspections through the services of licensed electricians; pulling permits to replace systems and making sure all those

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structures are safe before power goes back. Trying to get the homeowners back to where they want to be, but like Irene, it will be a very lengthy process.

- E. 1. CGS 8-24 APPROVAL – FENCING PROPOSAL FOR BERNARD/FRANCIS FIELD** – Junior Major League's proposal to install a removable fence at the Bernard/Francis Field referred to the Planning and Zoning Board by the Park, Beach and Recreation Commission.

Chairman Bender: They are trying to put up a galvanized fence with poles that are removable for different occasions. The cost will be \$1975.00 per fence removal, but the Oyster Festival is the only reason to take it down. Chairman Bender felt this proposal was not in keeping with the Plan of Conservation and Development. The POCD would like that field to be more universal, and a temporary fence with posts does not fit the plan. This type of fence is more rigid than the collapsible fence at Washington Field and lends itself to advertising on the fence.

Ms. Harrigan: Stated she had no more information on this subject than the Board has received. If the Board felt it wanted to follow up with further questions on this proposal, the Director of Park and Recreation could be contacted.

Chairman Bender: Met with Paul Piscitelli on this matter. Paul is not familiar with this type of fence. This fence is more rigid and has to be taken down in a certain way. Also, it is not clear who will be taking it down and who will be paying the bill, especially if it will have to be taken down more than once. He is concerned about having the concrete bases in the field that will hold the poles. It lends itself to more liability.

Mr. Rindos: Asked if there was a fence in place at those fields now.

Chairman Bender: The little league fields are back to back and are open towards each other. They are trying to separate the two fields. He is familiar with the temporary fences that are put up which collapse and are rolled away.

Ms. Cervin: Noted for an 8-24 approval there is usually someone present to discuss the request. She asked if it was known why they want this type of fence instead of the type Chairman Bender mentioned.

Chairman Bender: The purpose is for sponsorships.

Ms. Cervin: Stated she was not as concerned with the fact that this fence is not in accordance with the POCD. She is more concerned with the permanent fence vs. the more removable fence.

Chairman Bender: The Board can act on the 8-24 request or not, as the Board determines.

Ms. Cervin: Would like an answer to the question she previously posed about the two types of fences. It also costs a lot of money to have the fence removed.

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Mr. Mead: Asked why this had to come before the Planning and Zoning Board for its approval. Why could they not make a decision on the fence and then present it to the Board for approval.

Chairman Bender: They decided it fell under Capital Equipment and once that happens it becomes a CGS 8-24 and 8-24 does not fall under Park and Rec's purview. The City Attorney recommended it go through the 8-24 process.

Mr. Mead: Asked if someone involved in this request present the matter to the Board.

Chairman Bender: Said he would speak to the Rec Department to get some answers on this or present the request.

Ms. Cervin: Made a motion to table this item in order to obtain more information.

Mr. Gettinger: Second.

All members voted in favor to table this item.

F. PUBLIC HEARINGS – CLOSE BY 11/20/2012; expires 12/20/2012

2. **42 WESTMOOR ROAD (ZONE R-12.5)** – Petition of Buddy Field for a Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence and regrading within 25 feet of a flood plain on Map 30, Block 644, Parcel 7, of which Field and Son Builders LLC is the owner.

Thomas Lynch, Esq., Lynch Trembicki & Boynton, 63 Cherry Street, representing Christopher and Warren Field, the property owners of 42 Westmoor Road. This application was brought before the Board last year for a Special Permit and Coastal Area Management Site Plan Review in June 2011. It is the same application previously presented, which shows that all standards in terms of meeting DEEP and flood elevations and lack of wetlands are met. Based on the transcript of the 2011 hearing, 30-40 neighbors were present. This application was the start of the four lots to be developed on Westmoor Road. Photographs distributed show what is there now versus an ideal from a year ago, which could have caused a lot of the anger and concerns of the neighbors. At this time there are no neighbors present at tonight's hearing. Westmoor Road over the past year has been developed. The city storm drain system has been put into effect. The remediation concerns in terms of keeping drainage from the construction of the houses through the leders going into the ground and into the flood area, excavated to the shore side of the property has resulted in a very fine development. Three of the four houses of this subdivision have been constructed. The lot which is the subject of tonight's hearing was the lot that was denied by the Board last June.

An appeal of the Board's decision was taken to the Superior Court. That appeal is currently pending. However, after discussions with Attorney Woods, the Board Chair and Staff, it was discussed in terms of not letting an appeal go any further and bringing

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the application back to the Board for reconsideration based upon what is on the site now and the development of Westmoor Road. The photos distributed are very relevant.

Mr. Lynch reviewed the contents of the photographs. He noted the photos were taken the day after Hurricane Sandy and they show there is no water accumulated on the road or the site. Another photo showed the end of the cul-de-sac at Westmoor Road, the storm drains and city sewers that have been installed. The last two photos were taken at the height of the high tide the night of the storm. He referenced the puddle of water at the end of the road which showed no water accumulation on the lawn or at the curb, showing the drainage has not been a problem. The home development and City roadway improvements have resulted in a situation where water has been retained and dispersed in a manner that does not pose any problem to the public welfare. That had been the basis of the Board's denial last year.

With regard to the court appeal, extensions of any further action were filed on the case.

Joseph Codespoti, PE, Codespoti & Associates, 504 Boston Post Road, Orange.

Subdivision was prepared by his office. His purpose is to show that the proposed development of a single family home is compliant with all coastal area management use and resource policies. Via the display, he showed on Sheet SP-1, the lot in question, is entirely outside the wetlands. The infrastructure of Westmoor Road is already in place. All the drainage has been put in place. All that has to be done is access the road with the property driveway. In order to do that some grading has to be done in one of the coastal area resources, which is a flood hazard area. The reason it has to be done is the difference in road elevation between the road (elev. 8) and the property (elev.10). Therefore, the road has to be smoothed out and take some soil out of the flood plain, which will improve the situation.

Mr. Codespoti discussed the CAMSPR application. The home construction is outside the flood hazard zone. The house will be built in "shorelands". He noted the flood plain is considered elevation 10. About 6 inches of soil will be removed so that a driveway can be installed that will have a smooth access from the house to the existing pavement. There will be no other disturbance or change. The house will be set at Elevation 12. There will be no hazard to anyone in this house or the houses that are on the street. It is in full compliance with the Coastal Area Management Act. He noted that the City Departments have given their approval to this application.

Ms. Harrigan: Pointed out that Hurricane Sandy was not a 100 year storm. Just like storm Irene, there was not enough rainfall to categorize it as a 100 year storm. Although the photographs show that there was water that rose up in the street, there was not the kind of flooding that could be expected with a 100 year storm. Sandy was a coastal storm surge event and a very different kind of impact for this site. She agrees with Mr. Codespoti that they are providing more flood storage on site.

Chairman Bender: It was said there was no problem with the adjacent neighbors. Can this be verified by canvassing the adjoining properties?

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Ms. Harrigan: The adjoining properties are a bit higher than this property. The sign was posted and they have not come to complain about any of the drainage issues off this site. Absent of a house being there, she is not sure there would be much comment from them. There was a 4-inch rainfall event where if there were runoff issues, she thinks the neighbors would have felt it more during that quick rainfall event than they would have experienced with Storm Sandy at this part of town.

Chairman Bender: Tonight is not a good indication as to whether people would attend the hearing to complain (snowy weather). He would like to get an answer by the next meeting.

Ms. Harrigan: The public hearing can be left open and they can come the next time because the sign will still be posted and the hearing will be open.

Mr. Lynch: This hearing was continued from the last year because there was a problem with the display of the sign. There were no neighbors present that night and they would have been here for that hearing.

Mr. Codespoti: Stated the greatest danger is always the storm surge. That is what this is all based on. All the neighbors are on higher elevation. That means that the water from them is coming onto this property, not vice versa.

Chairman Bender: Wants to give the benefit of the doubt to the neighbors who are there and make sure they are okay with this.

Ms. Cervin: Asked if the driveway was permeable.

Mr. Codespoti: Paved driveway.

Lee Cooke, 48, Project Review Consulting Services, 48 Kohary Drive, Milford. He stated his experience has been 36 years with the Milford Fire Department, the last eleven years were as Assistant Chief and Fire Marshal for the City of Milford. He has been asked to prepare a report for this project with regard to public access for safety vehicles. He read his report into the record. (The report is on file at the Planning and Zoning Office.) His report was based on a worst case scenario and determined there would be no hardships for the Fire Department to get in there and access that site.

Chairman Bender: Asked staff if this addressed the 100 year flood issue.

Ms. Harrigan: Hurricane Sandy was a coastal surge event. FEMA does different modeling (SLSLOSS Maps). When there are winds that push in coastal water it is a different type of flooding event. In a 100 year storm it is defined by 7.5 inches of rain over a 12-24 period. Storm Sandy did not have that much rain, so that level of flooding would not be seen in the 100-year flood plain. Development is not prohibited within the flood plain as long as the proposed development is consistent with the flood hazard regulations.

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Chairman Bender: Asked if there was anyone to speak in favor of this application? (No response). Asked if there was anyone opposed to the application. (No response).

He asked that the neighbors be contacted to see if there is any objection to this application.

The Public Hearing will be left open to obtain the information from the neighbors.

G. CONTINUED PUBLIC HEARING – CLOSE BY 11/20/2012; expires 12/20/2012

3. **2007 BRIDGEPORT AVENUE (ZONE CDD-3)** - Petition of Thomas Lynch, Esq., for Special Exception and Site Plan Review approval to allow the establishment of a hookah lounge to be located on Map 43, Block 432, Parcel 00025, of which Jaser Enterprise, LLC is the owner.

Thomas Lynch, Esq. Continued public hearing representing the applicant, Sammer Karout. The question arose as to the 16 parking spaces in the rear of the building. He spoke to City Attorney Berchem who was under one set of facts as to the understanding as to the condition of the premises. He thought there were two parcels of property and the application was making use of parking on another piece of property; not the 2007 Bridgeport Avenue property. The site plan was submitted to him and he saw that the issue that arose at the last public hearing was the portion of the rear parking lot that encroached onto the property to the rear; the residences along the back end of Robert Treat Drive. The Board received the City Attorney's memo, at the request of Mr. Gettinger, which basically says that parking that is on another piece of property that is not part of the property before the Board cannot be considered. That is where it was left off at the last meeting.

He had proposed that those 16 rear parking spaces be removed from the parking plan. The new parking schedule has eliminated the 16 spaces that are located in the rear and will not be used. That increases the waiver. The total night use of the property is 103 spaces. Removing the 16 spaces in the back and include the 36 spaces that are on the property further down, plus the 20 spaces in the DOT lease equals 56 spaces, which leaves a waiver request of 47 spaces. The waiver request was previously at 31 and now the request is 47. He reemphasized the fact that the number of spaces that are needed for the Hookah Lounge are 40. The count shows the allowable number of spaces or the required spaces that they should have. The practicality is the other businesses do not use all those spaces.

This has been clarified by revising the site plan and the parking chart. They stand on the comments made at the last hearing that this application is a much improved application than what was submitted to the Board two years ago. The dance floor inside was eliminated. The food arrangement has been clarified along with the parking. The dumpster enclosures have been addressed. All the City Departments have responded favorably. Even the Health Department has no objection. Sammer has hung in for three years and is eager to open this lounge and make a go of it.

John Wicko, Architect, 50 Broad Street. The statement of use was resubmitted as requested. In accordance with David's and the Board's request, he revised Sheet SP-1 in the parking calculation chart one block of text that includes a waiver for 90 spaces. There

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is the comparison between the day and night uses and then the night uses which is relevant to the Hookah Lounge.

He noted the other minor changes that were made to the site plan. It was submitted to the Milford Traffic Division.

Sgt. Sharoh has not responded to the report and information hand delivered to him ten days ago. He has not responded to Attorney Lynch's phone calls and emails.

Ms. Harrigan: Asked why Hookah Lounge, Papa's Pizza and Fuji Chinese were calculated as sit-downs instead of take-outs on his chart.

Mr. Wicko: David had requested on the previous as well as the present applications, that these restaurants be considered "sit-downs" as worse case scenarios, even though they are take-outs and that is the way he calculated it previously. This makes it consistent.

Ms. Harrigan: Gave the parking space definitions between a take out and dine in facility.

Ms. Cervin: Asked if the Tree Commission comments would be complied with.

Mr. Lynch: Yes..

Chairman Bender: Asked if there was anyone to speak in favor of the application (No response). Asked if there was anyone to speak in opposition to the application? (No response)

The hearing will be kept open to receive Sgt. Sharoh's report.

H. PLAN OF CONSERVATION AND DEVELOPMENT - Update

Chairman Bender: The POCD is on the agenda for the Regional Council of Government tomorrow night as well as the agenda for the Board of Aldermen tomorrow night.

Got an update from Kathy Alegno of the Chamber of Commerce. They are meeting again and trying to move forward. Told her the Board is moving forward with approval.

I. PROPOSED ZONING REGULATIONS

Sec. 3.1.4.2 Building Height in Residential Zones - POCD will influence

Sec. 2.5.5 Lot Access and Rear Lots awaiting CA input

Sec. 9.2.3 Prohibited Variances - awaiting CA input

Add: Sec. 5.1.4 Off-Street Parking Requirements (10) Health Clubs

Chairman Bender: Spoke to the City Attorney's office and they are trying to get to this.

He noted that other cities and towns are running into similar situations with parking waivers. It appears to be an issue. This was discussed at the last RCG meeting he attended. New Haven has a different situation from the smaller towns.

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He would like to form a four member subcommittee to review the regulations. He asked that the board members notify him if they wish to be on the committee.

Ms. Cervin: Regulation changes may be needed in conjunction with the new POCD.

J. LIAISON REPORTS - None

K. APPROVAL OF MINUTES – (10/16/2012)

Mr. Willis: Motion to approve.

Ms. Cervin: Second.

All members voted in favor.

L. CHAIR'S REPORT

The Chair signed a lot line adjustment to 57-59 and 53 Stevens Street. The Land Use Seminar will be held on Saturday, November 10th.

M. STAFF REPORT – None.

Ms. Harrigan: There is the Hurricane Sandy Information Center in the Parson's Gymnasium from 10-4:00, Saturday November 10th. Also, FEMA has a Disaster Recovery Center set up in Parson's Gym seven days a week from 8:00 a.m. to 8:00 p.m. There are also some public internet stations that are set up at Parson's for people to check email, etc.

Mr. Mead: Motion to adjourn.

Mr. Willis: Second.

Phyllis Leggett, Board Clerk