

**MINUTES FOR THE SPECIAL MEETING OF THE  
PLANNING AND ZONING BOARD FOR TWO PUBLIC HEARINGS (LEFT OPEN)  
ON THURSDAY, DECEMBER 19, 2013 AT 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Mark Bender called to order the last Planning and Zoning meeting of the year on Thursday, December 19, 2013 at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

**B. ROLL CALL**

**Members Present:** Ward Willis, Jeanne Cervin, John Grant, Ed Mead, Vice Chairman; Joseph DellaMonica, Tom Nichol, Mark Bender, Chairman

**Not Present:** Ben Gettinger, Dan Rindos.

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

**D. NEW BUSINESS**

1. **185 KINGS HIGHWAY (ZONE R-7.5)** – Petition of Wayne Garrick, Architect, for Coastal Area Management Site Plan Review approval for substantial improvement to a Single Family residence on Map 59, Block 795, Parcel 6, of which Alan Masarek is the owner.

**Wayne Garrick, Architect, 291 Whitney Avenue, New Haven.** This is a CAMP application for a new single family residence in the R-7.5 zone. The owners have lived in this area at 181 Kings Highway for many years and recently purchased this home in order to make it their residence. The site is in an R-7.5 zone. This property is three times the size of any other site in the area; over 23,000 SF. The site is fairly flat. It gently slopes toward LI Sound at the rear of the house. It is in Zone X, not a flood zone, but it borders a flood zone. The house has had renovations and additions to it. Most of these were interior. Additions and renovations are proposed. Most of the additions are exterior spaces, such as; porches, a gazebo; an entry porch and it is proposed to remove an existing sunroom and adding a new game room to the house. The net square footage of additional habitable space on the first floor is approximately 200 SF.

In addition to the first floor renovations, which include kitchen and the game room, there will be an outdoor terrace, a gazebo and a covered porch. The balance of the first floor will remain intact. The second floor will be expanded slightly to correct a couple of bedrooms that exist there. They currently do not meet the building code. The new additions and renovations will meet the building code in all respects. All work is within the regulations. No variances are required. Sixty percent impervious surface is permitted. Currently there is 26% and it is being increased 2% to 28%.

With regard to storm water management, the City Engineer has requested that some sort of storm management system be created. It has been agreed to develop a design for a rain garden for storm water management in compliance with engineering's request.

**Ms. Harrigan:** Asked the Board to condition approval for a zoning permit upon adding the rain garden to the plans.

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**Ms. Cervin:** The driveway is a long asphalt driveway. Asked if consideration would be given to making it a permeable driveway, either all or partial, so as not to have the 2% increase.

**Mr. Garrick:** The driveway is existing. He could not answer for the owners. The driveway is in good condition and they would not want to rip it up. Would consider a permeable paver for the proposed new terrace. Will discuss it with the owners, but cost would be a factor.

**Mr. Mead:** Motion to approve 185 Kings Highway for Coastal Area Management Site Plan Review approval for substantial improvement to a Single Family residence on Map 59, Block 795, Parcel 6, of which Alan Masarek is the owner with the condition that the rain garden for storm water management be added to the plans prior to obtaining zoning permit approval.

**Chairman Bender:** Asked that Mr. Garrick work with the owners to decrease the impervious surface as suggested by Ms. Cervin.

**Mr. Garrick:** Agreed to do so.

**Mr. Nichol:** Second.

All members voted in favor of approval.

**D. PUBLIC HEARING LEFT OPEN – Close by 12/24/13; expires on 2/28/2014**

2. **86 POND POINT AVENUE (ZONE R-12.5)** – Petition of Tom Collucci for Special Permit and Site Plan Review approval to construct 22 residential units under CGS 8-30g Affordable Housing Act on Map 57, Block 712, Parcels 104a, 105a and 106a, of which Colberg, LLC is the owner.

**Mr. DellaMonica:** Recused himself from voting due to living in the subject area. (Mr. DellaMonica left the auditorium)

**Chairman Bender:** Information regarding the affordability plan was received from the State and a response by the Applicant, which is on file. Another letter from Attorney Bercury asking that two Board members recuse themselves, which is also on file.

**Attorney Bercury:** Appreciates the State's comments. The Applicant is willing to work with the Board as conditions of approval on any of the recommendations, including working with an entity as far as education for the administrator; assistance with applications, as well as other conditions that may be applicable in amending the Affordability Plan.

**Chairman Bender:** Noted the presence of Mr. Ivers, the Fair Housing Officer who stated he was present in the event there were any questions by the Board.

Chairman Bender stated Mr. Santoro, the Specialist from the State of Connecticut, gave recommendations and stated it was not intended to demonstrate approval or denial of the Plan.

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**Ms. Cervin:** Asked Mr. Ivers how many 8-30g condominium complexes are in Milford.

**Mr. Ivers:** Two complexes were built under 8-30g and neither one is a pure 8-30g, because both of them were denied, sent to the court, and were built in accordance with the court's stipulation. The court's stipulations has conditions that do not align with the 8-30g directly. There are two 8-30g developments in Milford; one is a rental and one is a homeownership project, similar to the one that is being considered tonight. That complex is six units with two affordable units.

**Ms. Cervin:** There are no 8-30g condominium complexes in Milford.

**Mr. Ivers:** No.

**Chairman Bender:** If anyone has any specific comments to this report by the State, they can come up and speak for three minutes.

**John Healy, 146 Pond Point Avenue:** Asked if the State's report could be read into the record or if it could be noted what the report states, as the public was not aware of its contents.

**Chairman Bender:** The report recommended some changes to the Plan. It did not say it was a reason to do it or not to do it. It is more of a fluid plan and needs to be adjusted accordingly based on a lot of things that change. It was nothing concrete that said it was wrong.

**Mr. Healy:** Said it was still within the Board's discretion to make a decision as to whether it is approved or not.

**Chairman Bender:** The only issue being discussed at this time is the Affordability Plan.

The response from Mr. Santoro is two pages. It was his interpretation that Mr. Santoro reviewed the plan and gave simple recommendations. There was nothing in the report to indicate the affordability plan was not acceptable. If there is no one to speak to this specific report, which is on file in the Planning and Zoning Office, it was the only item that was left open in the hear.

The Chair closed the public hearing on 86 Pond Point Avenue.

There is no more public input. It is now up to the Board to discuss the matter. The Chair asked if everyone would stay calm with regard to what is being discussed.

These have been trying discussions for everyone. It has been his favorite application in the six years he's been here. He definitely takes into account the traffic issue. He considers Mr. Kane an expert and believes that the accidents he recorded were significant. His accident data was different from the traffic study. He believed what Mr. Kane said that the traffic would influence more than that one block of the traffic study.

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**Ms. Cervin:** Stated she was very impressed by the number of people who have been present at the hearings and commended the people who organized this cause. However, the Board does not make its decision on the number of people, but the issues that are brought before it.

The question is whether this application passes the test of not creating adverse impact on the health, safety and general welfare of the community that exceeds the need for affordable housing. Agreed with Mr. Bender about the traffic issue. She did not think the scope of that report was adequate to the neighborhood. She also had concerns about the condominium organization itself in terms of how a group of people can make some of the decisions that are very important to this community; people who may not be educated in a certain way or be aware of the problems in the community. Concerned about the care and the upkeep of the basin. There might be an issue. She agreed with the State's comments with regard to the manner in which the common charges would be assessed. She had concerns about the management of the units and how the association would be educated to handle the affordability issues. Believed there would be an increase in the affordable units if someone has to be hired to work with the affordability issues and also to deal with the retention basin issues.

**Mr. Grant:** Concerns as far as wildlife and conservation even though the State said there was no impact. Milford has a lot of wildlife for its size. Also keeping the trees would help with the water redirection in that area. Not enough specific information given to address how the retention pond would be managed. Does not see how the Board could go through with this.

**Chairman Bender:** With regard to the wildlife issue, the note provided from the DEEP was written from that person's desk. No one actually looked at the property from the State.

**Mr. Willis:** Water runoff is an issue to most of the neighbors. Flooding and retention basin are issues. Sees health and safety issues in this application. Traffic issues are of major concern. Will be voting against the application.

**Ms. Cervin:** She thought testing of the ground for any toxic substances should have been done. Someone said this was an unauthorized dumping ground.

**Mr. Mead:** There are always two sides to a story. Has a list of pros and cons. The main thing is the land itself. There are 11 homes that abut this property, but the property that is this application is not open space. It is private property that the developer owns. It is up to him as to how he wants to develop it. It has been brought up that he was willing to sell it at the start of the hearings, and after a couple of meetings it was taken off the table.

Whether this project is turned down or not, developers are going to keep coming to the Board over the next several years until the 10% figure is reached. If it is in the Pond Point neighborhood now, it will be in his neighborhood the next time, or another Board member's neighborhood. It is not a particular area of Milford that they are picking on or looking at, it can be anywhere in Milford. That is how the developers if they cannot get the project that they want the first time around, then they come back with an 8-30g and the Board's hands are tied, unless there are substantial enough reasons to deny it.

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The flooding issue that was brought up on the back streets of Pauline and Lindy, Mr. Gordon said when they start doing the development that the water table would go down because of the excavating, but eventually it will rise back up. The problem is the side streets do not have any storm drains in their own area to alleviate the flooding in that area.

With regard to the traffic issue, he was disappointed that the study was done only in front of the property. Pond Point Avenue is a busy street going all the way up and down, from New Haven Avenue to Welch's Point Road.

With regard to the retention pond, he thinks there should be fencing around it in the event there is standing water there at any time.

**Ms. Cervin:** The applicant did a fairly comprehensive job on the hydrology report, but it is their report. Because of the seriousness of the water issues in the neighborhood, some of the conclusions they came to might be questionable. The water is an unknown situation.

**Mr. Grant:** Made a motion to deny the petition of Tom Collucci for Special Permit and Site Plan Review approval to construct 22 residential units under CGS 8-30g Affordable Housing Act on Map 57, Block 712, Parcels 104a, 105a and 106a, of which Colberg, LLC is the owner for the following reasons:

1. The application will result in increased danger to the public safety by Increased traffic on Pond Point Avenue, which has a history of high traffic Incidents.
2. The application is not in compliance with the Plan of Conservation and Development, which targets higher density projects near the train station and on other transit-oriented development corridors.
3. The application is not consistent with the Conservation Commission's statements. The removal of the existing natural open space will be a detriment to the welfare of the existing neighborhood and will permanently eliminate a rare naturalized wildlife buffer not otherwise available in this area of the City.
4. The issues that have been identified clearly outweigh the affordable housing gained.
5. The decision to deny is necessary to protect substantial public interests.

**Mr. Willis:** Second.

**Mr. Mead:** Asked to make one more comment. He stated that Senator Gail Slossberg spoke for the neighborhood. It is a State Statute that the 10% quota has to be met in every city that is on the Affordable Housing list. She, as the State Senator, should take that to Hartford instead of bringing it to the Board. The members of this board all live in Milford. No one has come just for these meetings. The Board has to live with it.

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**Ms. Cervin:** Added to the motion not to approve, taking everything into consideration that has been said here tonight against the application.

**Chairman Bender:** Agreed.

A vote was taken: All those in favor of the motion to deny: Ms. Cervin, Messrs. Willis, Grant, Nichol and Bender.

All those opposed to the motion to deny: Mr. Mead.

**Chairman Bender:** The motion passed 5 to 1 to deny the application.

**E. CONNECTICUT GENERAL STATUTES 8-24 APPROVAL**

1. **CAPITAL IMPROVEMENT PLAN** – Request by Mayor Benjamin G. Blake for CGS 8-24 approval of the City of Milford Capital Improvement Plan 2014-2018.

Steven Fournier was present on the Mayor's behalf to respond to questions by the Board on the Plan.

**Chairman Bender:** Asked when there would be lights at Foote Field. It's in the plan every year. When will it be approved?

**Mr. Fournier:** It's on the agenda for 2014. The Recreation Department is asking that it be done in 2014.

**Chairman Bender:** How do you make it happen?

**Mr. Fournier:** It would most likely go for bonding. It is one of many projects that Recreation has asked for along with all the other departments in the City based on what they feel is a priority to them.

**Chairman Bender:** Did not know the procedure for such action in the City.

**Mr. Fournier:** It is based on priorities. There are sewers, fire department requests, infrastructure.

**Chairman Bender:** Asked how does a group of people make this happen? Who do they go to?

**Mr. Fournier:** The individual department heads should put the request in. They can also talk to their aldermen and the aldermen can be spokespersons for whatever the request is. Lights at Foote Field are in the plan.

**Ms. Cervin:** Sewers are being extended into North Milford?.

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**Mr. Fournier:** It's on the plan, but not sure what year it is put in for.

**Mr. DellaMonica:** Asked about the State reimbursement rate for East Shore Middle School. Would it have been a higher rate for a new building than for the renovation that is ongoing now?

**Mr. Fournier:** Did not have knowledge or information on that.

**Ms. Cervin:** When will the City Hall cupola be finished.

**Mr. Fournier:** Hoping to get it done soon. It's been going on for a long time.

**Mr. Grant:** Consultant fees. A lot of these proposals have fees, especially sewer projects. He does not see anything in the proposals for in-house work. Asked why everything seemed to be outsourced.

**Mr. Fournier:** He did not have personal knowledge about the engineering or the sewers themselves. He knows the Sewer Commission has a consultant that works along with them. It is his understanding that most of the work is done in the sewer commission.

**Mr. Grant:** He has been before the Sewer Commission several times and the commissioners pass the application to the consultant who tells the commission what they should vote on. He thinks someone who knows about sewers should be on the commission.

**Mr. DellaMonica:** Asked who the sewer consultant was.

**Mr. Fournier:** Ray Macaluso.

**Mr. DellaMonica:** Asked if that role was ever put out to bid and if so, when was the last time it was done. In an attempt to save money in the City, it might be brought to the Mayor's attention as well as the Sewer Commission, to have someone do the same job unprecluded from pricing ceilings.

**Mr. Fournier:** Will pass that message along.

**Mr. Mead:** Dredging of Eisenhower Pond and North Street duck ponds, fixing retaining walls. When will that be?

**Mr. Fournier:** He did not know. It is something the Mayor wants done. The Mayor's office has been trying to obtain State funds for assistance in dredging. It is on the radar to get it done.

**Ms. Cervin:** Made a motion to approve the Capital Improvement Plan.

**Mr. Grant:** Second.

All members voted in favor.

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**F. PUBLIC HEARING LEFT OPEN – EXTENDED TO FEBRUARY 7, 2014**

**4. Proposed Zoning Regulation Text Changes Petitioned by Mayor Benjamin G. Blake, In Accordance with the Provisions of Connecticut General Statute 8-3b**

**Article VI** Non-Conforming Uses, Structures and Lots

**Article VI, Section 6.2** – Non-Conforming Uses,

**Section 6.2.6** – Discontinuance

**Section 6.3** - Non-Conforming Structures

**Section 6.3.6** - Restoration

**Article VIII** - Interpretation, Administration and Enforcement

**Section 8.2.2** - Authority to Enforce

**Article XI** - Definitions

**Section 11.2** - Other Terms

Structure; Improvement, Substantial

The Mayor's request for an extension was approved by the Board.

**G. REGULATION CHANGES – Rear Lots**

Discussion of proposed regulation change to Sec. 2.5.5 Rear Lots.

**Chairman Bender:** Officially gave up on this regulation change. It started before May of 2011 and he failed to bring about the change. It's gone back and forth for so long and he's done!

**H. LIAISON REPORT None**

**I. APPROVAL OF MINUTES (12/11/2013)**

**Mr. DellaMonica:** Motion to approve.

**Mr. Grant:** Second.

All members voted in favor to approve the Minutes of 12/11/13.

**J. CHAIR'S REPORT**

Chairman Mark Bender thanked the Board members for their support and commitment to representing their districts in the City. Everyone should be proud of themselves for what has been accomplished in the past two years.



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The Chair acknowledged two people, without whom he could not have survived being the Chair. One is the Vice-Chair, Ed Mead, his right hand man, who has been invaluable. It might not be noticed, but there is a little nudge, or a note, or a reminder to do something or not to do something. Thanks, Mr. Mead.

Second is Phyllis Leggett, the Board Clerk. He thinks she is the glue of the P & Z. If information is needed, documents, anything, she has it. She seems to remember everything that has come before the Board. She is my left hand woman and he thanks her very much for everything.

It has been an exciting six years and he cannot think of a better way to end it than the last few weeks that the Board has had. Thank you.

**Mr. Mead:** Stated as a member of the Board with the Chair for the past four years, he wanted to thank him for his commitment to the Board and to the Planning and Zoning Department. It has helped the commission become a better Board in the past two years. The regulation subcommittee that Mark started and the 22 or 23 regulation changes that were reviewed, were all significant. This particular board is not like the Board of Education or the Board of Aldermen, where there is a political party attached to each person. Once you are in this room as a P & Z member, there are no D's and R's. There is a book that the Board has to go by. People may stand up and yell and scream at the Board, but the Chair put it together and controlled the meetings for two years and ran a good tight ship. Thanks very much.

(Applause)

**Ms. Cervin:** Added that Mark has more than met the challenge of being the Chair. Another thing that goes along with being the Chair is educating the public to some degree, but to the new board members and that is a serious task. She thanked him for that. She also thanked him for his sense of humor. He has kept the Board laughing at times when it is been hard to laugh and it is something that she has appreciated, as well as his leadership for the past two years. It has been very good. Thank you.

**Chairman Bender:** Thanked everyone. He appreciates their words. You just try to do the right thing. He always thought the Board was doing some important things. Even during the Pond Point hearings he had to interject some levity. Good luck to the new Board.

**K. STAFF REPORT**

**Ms. Harrigan:** Wanted to echo the comments of the Board members and thanked Chair Bender and the Board members who are leaving the Board; Mr. DellaMonica and Mr. Willis, and to reiterate for the people who watch at home, the importance of the work that is being done by the Planning and Zoning Board. Their decisions are long lasting. Through every project the Board approves, they are shaping the City of Milford and that has meaning. It is very meaningful work that the Board does. On behalf of Staff and Department she thanked the Board.

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**Chairman Bender:** Stated he received a letter from the Milford Preservation Trust thanking the Board for preserving the Woodruff House on North Street. He went on to note in the letter it stated, " The Board's decision to allow the two lots for development and the perpetual preservation of the house and restriction in restoring it to the federal guidelines ...is a marvelous decision...and possibly a first for your Board". He thought the Board had made plenty of marvelous decisions!!!

**Mr. DellaMonica:** Motion to adjourn.

**Mr. Willis:** Second.

The Board adjourned the final meeting of the year 2013 at 8:35 p.m. The next Board meeting will be held on January 7, 2014.

Respectfully submitted,

*Phyllis Leggett*\_\_\_\_\_

Phyllis Leggett, Board Clerk