

**PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD  
TUESDAY, 15 JANUARY 2019, 7:30 PM, BOARD OF EDUCATION CONF. RM., 70 W. RIVER STREET**

The meeting of the Planning and Zoning Board came to order at 7:30 p.m.

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

**B. ROLL CALL**

**Members Present:** John Grant, B. Kaligian, Peg Kearney, Scott Marlow, Tom Panzella, Jim Quish

**Not Present:** Nancy Austin, Carl S. Moore, Robert Satti

**Staff:** David Sulkis, City Planner; Meg Greene, Board Clerk

**C. OLD BUSINESS**

1. **411 Welchs Point Road** (ZONE R-5) - Petition of Joseph R. Codespoti for a Coastal Area Site Plan Review on Map 38, Block 533, Parcel 32A of which Robert B. and Jenny Y. Finlayson are the owners. (continued from January 2, 2019)

**Thomas Lynch, Esq.**, Lynch, Trembicki and Boynton, 63 Cherry St, addressed the board. He said the application had been continued from the 2 January meeting to provide time to clarify revised architectural plans that bring the house into conformity with the regulations, specifically that the height is a conforming 34.6'. He said no issues were identified with the CAM.

**Mr. Grant** confirmed that the driveway would be asphalt with gravel. He confirmed with Attorney Lynch and Mr. Sulkis that lot coverage was conforming. **Mr. Sulkis** said the revised plan was reviewed by staff and found to be compliant.

**Motion: Mr. Grant** motioned to approve.

**Second: Mr. Marlow** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously

**D. NEW BUSINESS**

None.

**E. PUBLIC HEARINGS**

**CLOSE BY February 19, 2019; VOTE BY March 21, 2019**

- 1) **0 and 990 Naugatuck Avenue** (ZONE HDD) – Petition of Jeffrey Gordon, for a Change of Zone from HDD to WDD, on Map 40, Block 300, Lots 2 and 3B; of which Recycling, Inc. is the owner (Postponed from December by applicant request).

Attorney Franklin Pilicy, of Pilicy and Ryan, 365 Main Street, Watertown, addressed the board. He submitted a memorandum for the record and went through it. He reviewed the site's previous use and its environmental problems, truck traffic, and litigation. He reviewed the Caswell Condominium approval, noting the remaining undeveloped portion. He said the condominium complex's proximity to the previous recycling use had discouraged potential developers. He disputed the validity of Devon Power's protest petition, saying the power plant may not own the requisite 20% of property in the vicinity that would give it standing to submit such a petition and, per Milford regulations, trigger the need for a voting super-majority to approve. He said unofficial Codespoti surveying analysis suggested that the utility site may fall short of 20% ownership. He referred to a 1967 case that dealt with zoning changes and found for the discretion of the Planning and Zoning Board. He reviewed Primrose's reading of the Plan of Conservation and Development (POCD). He reviewed the statute as it relates to the POCD, saying Milford's POCD follows the statutory criteria, with an emphasis on housing and economic diversity of housing. He noted statistics on parcels for open space and development with a need for multi-family use. He stated that the addition of residential units had not affected the City's population which has remained steady around 50,000. He discussed the definition of affordable housing and Milford's progress toward the goal of 10%.

**Mr. Quish** interrupted the presentation to ask how some of the topics bore on the board's consideration of the project. **Attorney Pilicy** said zone changes must be consistent with the POCD and that he was building a case that the application is also consistent.

**Attorney Pilicy** returned to a point made at the earlier presentation that the regulation would be restricted such that it only applied to zone WDD if it was previously an industrial zone. He referred to a recent appellant court case regarding the uniformity rule. He said restricting a zone in this fashion was not uncommon in areas that were formerly industrial zones. He said the application was not an affordable housing project. He said the Milford regulations do not define residential use or extended stay hotel use or convalescent use. He commented on a DEEP report, saying that zone changes may be necessary to redevelop historically contaminated parcels. He addressed comments on spot zoning made at the previous hearing. He said changed conditions throughout the state required zone flexibility, particularly with respect to contaminated brown-fields. He raised the prospect of

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new recycling activity on the site. He said the application presented an opportunity to address the existing contamination and satisfy neighbor concerns. He referred to Mr. Guede's experience with addressing costly, long-term project efforts. He said if the board approved the application, the zoning issues would just be the first step toward overcoming other hurdles via an overall development plan. He said he expected a special challenge to come from issues with the railroad crossing.

**Mr. Gordon**, Codespoti Associates, Orange, addressed the board. He said the assertion by Devon Power's ownership of 20% was difficult to determine without a survey. He presented drawings based on GIS and other resources. He said the power plant was formerly a polluter. He shared photographs of the site with the chimney stacks to give the board a sense of the proximity. He said watchdog agencies had brought the plant into more clean, sustainable activity. He said there had been comments on access to the site being too narrow with an 8' wide easement, saying there would be a 40' easement. He referred to possible reduction of pollution standards which might be restricted by proximity to residences. He provided a photograph of a sign trying to redirect truck traffic away from the area. He reviewed permitted uses in the HDD zone. He said all uses would be allowed only by Special Permit under a WDD zone. He said many Milford waterfront properties were in flood zones. He showed photographs of other taller properties. He said waiting for a better developer would subject the site to degradation. He said an under-producing property could be improved by the proposal.

**Mr. Sulkis** said Attorney Pilicy made several references to the POCD and corridor districts, but that the corridor districts were not in this area.

**Chairman Quish** invited public comment.

FAVOR

**Dotti Bateman**, President of the Caswell Cove Association, 632 Popes Island Road, said she was surprised the issue of access was still a problem. She said residents worry about emergencies where they could not get in or out of the site. She said she thought this problem could be addressed by the proposal.

**Betsy Ratner**, 1423 Windward Road, noted how appealing the length of the coastline is in Milford and said more people would be able to live in proximity to the river.

OPPOSED

**Kari Olson, Esq.**, of Murtha Cullina Attorneys at Law, with offices in Hartford and New Haven, addressed the board, noting the presence of Devon Power plant managers Nick Volderno and Joseph Czerejko. She rebutted Mr. Gordon's assertion about 20% ownership; asserting that the plant owns 26% per a licensed surveyor. She refuted the argument that the industrial zone that equated hotels with residential uses. She said if the zone changes to WDD, the affordable housing act would indisputably apply. She dismissed Mr. Gordon's historical statements suggesting that her client was not a good neighbor. She said Devon Power supported a potential developer being sought to create a transitional area between the plant and condominiums. She said a dense residential use would not alleviate traffic. She said the City Planner and DEEP both recognized that uniformity. She said the proposed new WDD1 zone would constitute spot zoning. She said references to the POCD had been highly selective. She disputed that the McKenzie case had nothing to do with zone changes and is irrelevant to the decision before the board. She stressed that Devon isn't opposed to development; it's opposed to an intense residential use. She said the plant needs to have space for flexibility and growth. She said there are more appropriate transitional uses than this plan.

FAVOR

**Nancy Citarella**, 1236 Windward Road, said she wants to expand the community.

**Mark Kuba**, 514 Popes Island Road, questioned the motives of Devon Power, wondering if it eventually plans to acquire the transitional property.

**Jean Cianciolo**, 624 Popes Island Road, said if zone is changed, it will protect the future of residents.

REBUTTAL

**Mr. Gordon** said spot zoning is an ambiguous term with varied uses and that it did not apply. He disputed several things Attorney Olson asserted. He read a passage regarding a Montville coal plant and its impact on increased pollution. He said residential neighbors would serve a kind of watchdog function to notice if such changes occur.

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**FAVOR**

**Nick Veccarelli**, 57 Pond Street, Alderman, said he had many calls from constituents over the years about problems regarding the recycling plant formerly on the site. He contrasted the Milford industrial use of the Housatonic waterfront with Stratford's development of water-view properties. He discussed the former usage of coal at the Devon Plant. He said he supported a residential use.

**REBUTTAL OF MR. GORDON'S COMMENTS**

**Attorney Olson** said Devon Power has no plans to burn coal again ever. She said the utility is highly regulated and doesn't need residential oversight. She stressed that there are no plans to purchase the transitional property; that if such plans existed, they would have been carried out by now.

**FAVOR**

**John Guedes**, Primrose Companies, 1425 Noble Avenue, Bridgeport, said he wanted to remind the board of the history of the recycle use, which has been grandfathered. He pointed to the possibility of new owners obtaining a new license and reopening the recycling plant. He suggested that the only way Caswell Cove could develop their final phase was via someone with his particular experience, stressing that he had special expertise in this type of complex development.

**Chairman Quish** closed the hearing. He said a super-majority was needed to vote and none was present. He said the item would be continued to the next hearing. Chairman Quish stressed that both items—the applications for the Zone Change from HDD to WDD and the Zoning Change regarding multi-family dwelling were closed.

- 2) **Proposed Change to City of Milford Zoning Regulations:** Article 3, Section 3.13.2.3 Special Uses, 3.13.3 Building Requirements and 3.13.4.3 Accessory Uses, Multiple Family Dwellings, in the WDD Zoning District, proposed by Jeffrey Gordon as agent for applicant Primrose Companies/Recycling, Inc. (Tracking #29-18) (Postponed from December by applicant request)

***SEE PREVIOUS ITEM; HEARING CLOSED, NO VOTE TAKEN YET.***

- 3) **100 Raton Drive** (ZONE LI) – Petition of Thomas B. Lynch, Esq. for Amendment to the Special Permit with Site Review, on Map 73, Block 928, Parcel HQ; of which Best Buddies, LLC is the owner.

**Thomas Lynch, Esq.**, Lynch, Trembicki and Boynton, 63 Cherry St, addressed the board. He introduced his clients and referred to the success of their brewery and tasting areas (interior and exterior), which opened last year. He said a few items on the original site plan required closure and that this work had been completed, other than some paving which could not be done in winter. He said the amendment was to allow a tent enclosure for the patio so it could remain open from November-April. He said per building code, it would not be attached to the roofline of the building. He said an external propane heater would control the temperature. He said no other changes would be made to the use of the site.

**Mr. Marlow** confirmed with **Mr. Sulkis** that any open conditions would be met and an As Built survey would be supplied. **Mr. Sulkis** suggested that a small bond be posted to address Mr. Marlow's concerns. **Attorney Lynch** suggested a \$1500 bond be included.

**Chairman Quish** invited the public to speak; no one came forward.

**Motion: Mr. Marlow** motioned to approve with condition of completion of open site work and posting of a \$1500 bond pending review by the City Engineer.

**Second: Mr. Grant** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously.

- 4) **363 Naugatuck Avenue** (ZONE CDD-2) – Petition of Thomas B. Lynch, Esq. for Special Permit with Site Plan Review for office over 5,000 SF, on Map 15, Block 241, Parcel 1; of which 363 Naugatuck Ave, LLC is the owner.

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**Thomas Lynch, Esq.**, Lynch, Trembicki and Boynton, 63 Cherry St, addressed the board. He said ATT is the owner of the nationally broadcast Dan Patrick show. He said ATT wished to renovate and construct an office at the site. He introduced the project team.

**Eric Jones**, 13 Bethel, Norwalk, ATT Entertainment, addressed the board. He said Dan Patrick's current studio is over the downtown Subway restaurant and had been outgrown. He provided photographs that show special sports-themed areas for the broadcast, as well as a kitchen space. He noted an outdoor space which would be used by a program sponsor for demonstrations.

**Attorney Lynch** said the site features 18 parking spaces with one handicapped parking space. He said the site's westerly paved area won't be used for parking. He said there would be approximately 12 employees on site: 7 fulltime, 5 part time, plus guests. He said that 18 spaces would provide enough parking spaces for that many people. He noted the active, long-time support of Dan and Susan Patrick in promoting business growth in the Milford community, including keeping the show broadcasting in the City. He said the site plan was zoning compliant other than parking.

**Eric Zawatski**, PE, DTC Civil Engineering, Hamden, reviewed the survey. He said the parking lot would be sealed, an entrance would be provided and lighting added. He described paving and curb cuts, saying they would accommodate any requirements of the City Engineer. He described improvements to catch basins.

**Allan Lagocki**, Ames and Whitaker Architects, Southington, reviewed the elevations and floor plans as well as special features in the studio such as a sound barrier. He pointed out a large storage area for studio sets.

**Attorney Lynch** said the show was broadcast daily, and that the project featured time constraints to meet an April deadline.

**Mr. Grant** asked if the paved area might be suitable to overflow parking, but Mr. Zawatski said that if it's used for that purpose, the City Engineer required upgrades that would total \$450k-200k, so that use would not be feasible.

**Chairman Quish** invited the public to speak; no one came forward.

**Motion: Mr. Panzella** motioned to approve.

**Second: Mr. Grant** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously

**F. LIAISON REPORTS**

**G. REGULATIONS SUBCOMMITTEE**

**Mr. Grant** said 4 proposed changes were proposed for full circulations. He reviewed amendments with a recommendation of the Regulations subcommittee to circulate for review the following Items:

1) **Proposed Change to the City of Milford Zoning Regulations:** Article 3, Section 3.9.6.1 Lawful non-conforming lots (Tracking #41-18)

**Motion: Mr. Grant** motioned to circulate all referenced amendments for regional review.

**Second: Mr. Marlow** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously

2) **Proposed Change to the City of Milford Zoning Regulations:** Article 4, Section 4.1.1 Structures or Accessory Buildings in Residential Districts (Tracking #42-18)

**Motion: Mr. Grant** motioned to circulate the referenced amendments for regional review.

**Second: Mr. Marlow** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously

3) **Proposed Change to the City of Milford Zoning Regulations:** Article 5, Figure 4: Minimum Off-Street Parking Requirements:

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(7) (Tracking #43-18)

**Motion: Mr. Grant** motioned to circulate the referenced amendments for regional review.

**Second: Mr. Marlow** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously

4) **Proposed Change to the City of Milford Zoning Regulations:** Article 5, Section 5.1.4 Off-Street Parking Requirements: 5.1.4.2 Prohibited Drive-thru Windows (Tracking #44-18)

**Motion: Mr. Grant** motioned to circulate the referenced amendments for regional review.

**Second: Mr. Marlow** seconded.

**Discussion:** None.

**Vote:** Motion carried unanimously

**H. APPROVAL OF MINUTES** 1/2/2018, unanimously approved.

**I. CHAIR REPORT** None.

**J. STAFF REPORT: Mr. Sulkis** said that on 23 March, the CT State Bar Association would run its annual land use training workshop at Wesleyan University. **Chairman Quish** said he had attended in the past and found the session valuable. Board members can request information from the Planning and Zoning Office and will be reimbursed the modest tuition charged to attend.

**K. ADJOURNMENT** was at 9:21.

Attest:

M.E. Greene, Board Clerk