

**MINUTES FOR TWO (2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
TO BE HELD TUESDAY, FEBRUARY 19, 2008; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair, Jeanne Cervin, called to order the Public Hearing of the Planning and Zoning Board at 7:30 p.m.

A. ROLL CALL

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

NOT PRESENT: Janet Golden

Staff Present: David Sulkis, City Planner, Phyllis Leggett, Board Clerk.

Mme. Chair: Asked for a moment of silence in remembrance of the two young men who were Jonathan Law students, Shawn Foley and Jonathan Dolceacqua who lost their lives in a tragic accident. Also to remember Michael Vicino who is recovering in Bridgeport Hospital.

Stated the Mayor was coming before the Board for three 8-24 approvals.

B. 8-24 APPROVAL

1. **BOSTON POST ROAD AND ROSES MILL ROAD** - Request by Mayor James Richetelli, Jr. for 8-24 Approval for the conveyance of State Land at the corner of Boston Post Road and Roses Mill Road (aka Map 90, Block 812, Parcel 43).

Mayor Richetelli: Recognized the new board and thanked them for volunteering their time for the City's benefit. He explained that under Connecticut statutes, 8-24 approval by the Planning and Zoning Board is necessary before being presented to the Board of Aldermen any time the City conveys, leases or takes conveyance of land.

The property in question is located on the corner of Route 1 (Boston Post Road) and Roses Mill Road, located in the front of the Milford Crossing parcel. It has been owned by the State Department of Transportation for many decades. Explained that the 2.4 acre of green space is surplus land for the State of Connecticut and under state statutes the City has the right of first refusal to buy the property. Intention is to leave this parcel as open space forever. It will cost the City \$1000 for conveyance costs. Asking for the Board's approval.

Mr. Liddy: Asked if the Land Trust agreed to accept the property.

Mayor Richetelli: Have not discussed it with the Land Trust. The Open Space Advisory Committee is involved. The Land Trust may not be able to take over the property as the State is conveying it to the City. The City would not be doing much more than cleaning it. There will be a deed restriction on the land records keeping it as

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open space in perpetuity. In the State legislation there is a reverter clause stating if the property ever passes to anyone else besides the City, it reverts back to the State first.

Mme. Chair: This is quite a bargain for the City as open space.

Mr. Goodrich: Motion to approve the Mayor's request for 8-24 approval as discussed.

Mr. Vetter: Second.

All members voted in favor. Motion passed unanimously.

2. **15 ELLIS STREET** – Request by Mayor James Richetelli, Jr. for 8-24 Approval for the conveyance of a sliver parcel on Ellis Street located on Map 18, Block 8, Parcel 1, to the adjoining owner of Blanca Herrera, of 15 Ellis Street.

Mayor Richetelli: Referred the Board to the map, which shows a pie-shaped piece of property. Explained for whatever reason there is a small piece of land that is not owned by someone for whatever reason, and the City becomes the owner. Sometimes an adjacent property owner requests to purchase the property. In this case the homeowner is an elderly citizen. The Community Block Grant Office is working with her to put in a new furnace. In order to run a gas line (for the furnace) to her property it has to pass through the City-owned property. It does not make sense for the City to own the property and at some point should be transferred to the homeowner. This would be a good time to sell the parcel to Blanca Herrera.

Thomas Ivers, Community Block Grant Officer, City of Milford. The land records indicate Mrs. Herrera owns the property and some of the deeds say the City owns it. This action will clean up the land records. This will clarify the deed and the property to show that she owns the property. It is an act of confirming her ownership of the property.

Mme. Chair: Serving two purposes: Cleaning up the property and doing a good deed for a citizen.

Mr. Bender: How will this affect her tax assessment?

Mr. Ivers: There are no recorded maps that show this sliver property exists. The tax map will be redrawn to show that she owns this property, but it will be immaterial.

Mr. Goodrich: Motion to approve the Mayor's 8-24 approval as discussed.

Mr. Vetter: Second.

All members voted in favor. Motion passed unanimously.

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3. **203 HIGH STREET** – Request of Mayor James Richetelli, Jr. for 8-24 Approval for a five-year renewal of the lease agreement between the City of Milford and Catholic Family Services, Inc. for City owned property located at 203 High Street (aka Map 54, Block 321, Parcel 33).

Mayor Richetelli: A colonial house has been the home of the Catholic Family Services (formerly Catholic Charities). Not sure how the City came to own the property, but it has been leased to the Catholic Family Services for many decades. Would like to renew the lease for five more years. Noted that the liability insurance may increase because the value of the property has increased.

Mr. Goodrich: Asked if there are any issues due to the fact that the parking lot for Harborside Middle School, appears to be on the same property as CFS.

Mayor: No. The property is fenced off even though it is one parcel. The building is leased to Catholic Family Services, not the land. It has been a seamless relationship. They maintain the property totally and pay for its liability.

Mr. Goodrich: Motion to approve the Mayor's 8-24 approval as discussed.

Mr. Liddy: Second.

All members voted in favor. Motion passed unanimously.

Mme. Chair: The reason the Coastal Area Management Site Plan Review is coming before the Board as a public hearing is because there is a seawall involved and the DEP requires a public hearing in such instances.

C. PUBLIC HEARINGS

4. **460 GULF STREET (ZONE R-12.5)** Petition of Mark Leavens of Harmony Homes, LLC for a Special Permit and Coastal Area Management Site Plan Review to demolish an existing house and construct a new house with a sea wall replacement on Map 36, Block 511, Parcel 1A, of which Matthew Vaccaro is the owner.

Mark Leavens, Harmony Homes, 386 Valley Road, Fairfield CT. Intention is to rebuild a legal seawall. Been on this project for almost two years attempting to get approval. Received approvals from the DEP. Have come up with a good solution; one that is environmentally safe. Got a variance to build a new home on the present footprint.

Mr. Goodrich: What was the variance for?

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Mr. Leavens: For new home construction received almost two years ago. The variance was obtained because the new structure does not adhere to today's setbacks. It was grand-fathered in.

Mr. Liddy: What will be done with the existing trees?

Mr. Leavens: No plans to take down the existing trees, except for some smaller trees on the front lawn near the seawall. The project will be landward not seaward. Described the work that will be done on the property with regard to the seawall. The project is in full compliance with the requirements of the DEP.

Mr. Liddy: How old is the original house?

Mr. Leavens: 1886, which has been added on to many times. Not structurally sound.

Mr. Bender: Who will oversee the project? The State, the City or both?

Mr. Leavens: Both. Application to the DEP was very extensive and highly engineered.

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

Asked Mr. Sulkis for his comments.

Mr. Sulkis: Fairly straightforward. DEP has given their preliminary approval for design. Applicant has given a good explanation of the project.

The Public Hearing was declared closed.

5. **329 OLD GATE LANE (ZONE ICD)** Petition of Kevin Curseaden, Esq. for a Special Exception and Site Plan Review to construct a 7,300 square foot commercial building on Map 79, Block 810, Parcel 4A, of which Old Gate, LLC is the owner.

Kevin Curseaden, Esq., Stevens, Carroll & Carveth, 26 Cherry St., Milford. Also present are Attorney Leo Carroll, Richard Smagala of Architectural Services and Mr. Tahir Mehmood, the property owner. Presented a statement of ownership of the property as well as an affidavit from Mr. Mehmood for the record.

Stated Mr. Sulkis wrote a memo concerning this project. Discussed the property's history and the inherent problem of the site. Via a site plan display, showed the property's location in what is now the ICD zone. It is the old Bruno's gas station site that is small in comparison to the surrounding properties. Proposing a 7,300 SF building with three tentative tenants. Because of the zoning change there are setback

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issues. Asking for waivers on the side yard setbacks, the landscape buffer setbacks and building use and building side setbacks.

The owner had looked at other potential uses for the site. Was formerly a gas station, however, the competition in the area is too great and not economically feasible to open another gas station. The project as proposed is the best use for the site. Starbucks has expressed an interest. Some banks and a cell phone store are other potential tenants. Cannot get a commitment from tenants until they are confident of approval. Property has been in discussion with Mr. Sulkis for quite some time. The property qualifies as a Special Exception because of its size (small lot amongst many larger lots) and the harmoniousness of its use in connection with the surrounding neighborhood.

Mr. Sulkis' comments are accurate. Will redo the photometric survey, the side yard setback not taking into account the overhang for the drive-thru and other issues if the public hearing is left open to receive more information. Floor plans are difficult to do at this time. Will address the other issues in the memo. Letter from Starbucks goes back to May 2007. Their interest and needs may have changed by this time.

Mme. Chair: Difficult situation. Does not think the Board can give approval to the application until further, more definitive information is received.

Mr. Curseaden: Understands the dilemma. If the applicant gets some sense that the building, setbacks etc. will be approved, can try to get more definitive response from potential tenants.

Leo Carroll, Esq., 26 Cherry Street, Milford. Spoke to Mr. Sulkis about all the issues that have been presented. Can go before the Zoning Board of Appeals for variances on these issues because a non-conforming use was created by the rezoning of the area. After working on this project came down to the 7300 SF building. The Board can give approval to the site plan and when the applicant has tenants they will come back to the Board to finalize the Special Exception. This is an unusual situation. Lowe's, Secondi, Toys are Us are all big users in the area, which are appropriate. There are a few three or four small parcels that are left in the zone. Cannot convince anyone to sign a lease until it can be shown that there is approval. Otherwise, if the Board cannot approve this, will have to get the variance and will be able to put anything there that the variance allows. The ICD building minimum is 10,000 SF. Cannot do it on this piece of property. Guess is that there will be a sandwich/coffee shop, a bank, a cell phone store. All small businesses. Next door is D'Angelo's sandwich shop. This is a small lot that has a nonconforming use created by the Board.

Ms. Rose: When did the applicant purchase the property?

Mr. Carroll: 2006.

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Ms. Rose: The owner purchased it with the current zoning regulations in place. Not sure whether the ZBA would consider this a hardship.

Mr. Carroll: Explained how there could be a hardship for ZBA. The change in the regulations created a non-conformity. That is hardship enough to be granted a variance.

Mme. Chair to Mr. Sulkis: Stated Mr. Carroll is asking for approval of the size and setbacks. What is his view on this?

Mr. Sulkis: Mr. Carroll is asking for approval of the shell. There is a concern as to the type of use. Tight site for retail with regard to parking. As it is proposed tonight with the breakdown they have, 1000 sf restaurant use; 6300 sf being retail, the parking works. Concern is they come back with something else that will work on the site. The thinking in bringing it to this board is there would be more control over the site plan, i.e. landscaping, lighting, etc. Although, in this zone, even if they get the variance, it would be by Special Permit and this Board would still be involved. They could get a minimal variance and the building would be smaller than the one being presented. Very unusual situation.

Mr. Ferrante: Is it possible to get the other things cleaned up before the Board goes any further? (property line, overhang issue). Understand the issue but have a problem approving it as it is.

Mr. Curseaden: Can address these issues by the next meeting.

Mme. Chair: The issues that need to be addressed are:

1. Setbacks and Overhangs (depending on the use).
2. Photometric survey needs to be completed.
3. Property Lines.
4. Accurate color elevations.
5. Loading/delivery area.

Mr. Curseaden: Will address "other issues" 1, 2, 4 and 5, as stated in Mr. Sulkis' memo of February 19, 2008, before the next meeting.

Mme. Chair: Anyone to speak in favor? (no reply)
Anyone in opposition? (no reply)

Mr. Goodrich: On the site plan it shows five trees along the street frontage. Police Report asked that sight line visibility be maintained.

Mr. Curseaden: That will be addressed. Will have to find a tree that complies.

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Mr. Sulkis: The Tree Commission stated there was no irrigation system in place and made suggestions as to how this could be accomplished. The City Engineer had comments to which the applicant has responded. Need to receive confirmation of this from the City Engineer.

Mme. Chair: The City Engineer's concerns should be responded to before the next meeting.

Mr. Goodrich: Stated there should be sidewalks in the rear for pedestrians to walk around the drive-thru.

Mr. Goodrich: Read the Police Report aloud.

Mme. Chair: By next meeting applicant will provide responses to requests by the City Engineer, Police Department and Tree Commission, as well as items 1, 2, 4 and 5 of Mr. Sulkis' memo.

Should reserve further discussion for future meetings once the additional information is +
32.0presented.

The Public Hearing will be continued to the next meeting on March 4th.

D. TABLED BUSINESS

6. **214 BROADWAY** (ZONE R-5) Petition of Mark Pucci for a Coastal Area Management Site Plan Review to construct a single family residence on Map 13, Block 132, Parcel 5, of which Mark Pucci is the owner.

Mme. Chairman: Discrepancies in the plans that the Board was presented with originally and those that were sent to them.

Mr. Liddy: What are the discrepancies?

Mme. Chair: Cupola on the small plan and turret on the larger plan. On the small plan there were some stairways that are not on the larger plan. There is air conditioner placement on the large plan that was not on the small plan.

Ms. Rose: Mechanicals were not shown on the first set but were shown on the second set. Still have a height problem with the application. Discussed why she has this opinion concerning the height of the cupola or turret.

The basement level is built on grade, which no longer makes it a basement level, but a habitable living space, thus has to be considered a floor.

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Mr. Sulkis: Explained how according to the regulations the basement in this instance would not be considered a story. Other homes with this type of story-structure have been approved and are in accordance with the regulations.

The flood elevation of the house was discussed.

Mr. Vetter: Asked about the height of the turret.

Mr. Sulkis: Exceptions to the height rule as it appears in the regulations has been discussed. The Board has to decide which exception applies in this instance, whether it is a cupola or a turret.

There was further discussion concerning building height definitions and its application according to the regulations and the Board's interpretation of same.

Ms. Rose: Which plans should the Board be reviewing?

Mr. Pucci: The larger plans, which the Board requested at the last meeting.

Mr. Ferrante to Mr. Sulkis: The Planning and Zoning Office reviewed the plans. In his opinions are the plans in conformity with the regulations?

Mr. Sulkis: The interpretation of the height of this house is consistent with previous applications of this type. At this time there appears to be a difference in how Mr. Crabtree has interpreted the height and how the Board is interpreting it.

Mr. Vetter: The structure in question appears to be a turret as opposed to a cupola. Suggested the height regulation for added on structures was meant for chimneys, or added features that affect the use of the building, not those for decoration purposes.

Mme. Chair: Suggested the Board vote to deny without prejudice and work with the City Planner to work on the height issues.

Mr. Goodrich: One Point Beach Road had been approved with a cupola with a brass ball on top that was higher than the turret.

Mr. Ferrante: Believes the building is too high, too big, too obtrusive for the site. Applicant came in good faith based on the interpretations that the Board and office has done for many years. This application demonstrates the need for a closer look at the regulations. However, cannot start the process with this application. The regulations need to be addressed.

Ms. Shaw: Agrees with the Chair that Mr. Pucci should work with Mr. Sulkis on the building height. Also agrees with Mr. Vetter's interpretation of the height of the turret.

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Mr. Bender: Applicant has been working with Mr. Crabtree. He needs direction from the Board or else he will come back with the same thing.

Mr. Sulkis: It appears the Board's issue with the height is the use of Sect. 4.1.13 concerning the turret/cupola. Will work with Mr. Pucci on the regular height section, which will necessitate a change to the structure on the roof and would keep to the 3' height instead of 15'.

Ms. Rose: Motion to deny the application without prejudice.

Ms. Shaw: Second.

Mr. Goodrich: Reviewed aspects of the plan and how it complies with the regulations. The applicant has come before the Board previously. He has made many changes at the previous board's request, as well as this board's request. Asked if the applicant would have to submit a new application if the present application is denied without prejudice.

Mr. Sulkis: No. Just redo the turret.

A vote was taken on the motion for denial without prejudice: Seven members in favor; Mr. Goodrich voted against; Mr. Ferrante abstained. The motion passed.

E. NEW BUSINESS

7. **840 ORONOQUE ROAD (ZONE HDD)** Petition of Iroquois Gas Transmission System, LP for Coastal Area Management approval and Site Plan Review approval to construct a natural gas compressor facility on Map 73, Block 0927, Parcel 001AB, of which Iroquois Gas Transmission System, LP is the owner.

Mme. Chair: This is an approved application by the Federal Energy Regulatory Commission, who has jurisdiction that preempts the City's local regulations. The Board is hearing the application as a courtesy of the Iroquois Pipeline Operating Company.

Ruth Parkins, Public Affairs Manager, Iroquois Pipeline Operating Company (agent for the applicant, Iroquois Gas Transmission System), One Corporate Drive, Shelton, CT. Introduced Brian Wolf, Manager, Engineering Services and Rod Cameron, Landscape Architect with CCA.

Described the project as being one component of a larger project and distributed brochures that explained the purpose of the project and its components.

Discussed the manner in which the project and its application was introduced to the City and the community.

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Distributed scaled down versions of the plans to the Board.

Brian Wolf: Discussed the site layout and the surrounding area. Described the artistic renderings of the proposed two compressor buildings and the nearby area.

Mr. Bender: Does not appear to be signage for emergency services purposes.

Ms. Parkins: The Fire Department is being trained for this facility on site.

Mr. Sulkis: The Fire Department's review did not have a problem with the plans.

Mrs. Patterson: Questioned the exhaust and how loud it would be to the public.

Mr. Wolf: Regulations do not allow any more than 55 decibels to the nearest noise receptor. There is a noise plan with the application to show how the requirements will be met.

Mrs. Patterson: Will there be a fence around the area where the train goes through?

Mr. Wolf: The whole facility will have a fence around the perimeter.

Discussed the noise levels to the nearest noise receptor, which are limited to 55 decibels.

Mr. Sulkis: Fire Department approved it for site only. When the buildings are put up there will be further review.

Mr. Liddy: Will the site be manned 24 hours?

Mr. Wolfe: It will be monitored from the gas control center in Shelton, CT. Not a manned facility, however, field techs will check the site periodically.

Mr. Liddy: Questioned the security measures that will be in place.

Ms. Parkins: There are many security measures that will be in place.

Mr. Liddy: Questioned if this project was related to Broadwater.

Ms. Parkins: Stated the purpose of the project is to bring volumes of gas to Keyspan, which is located on Long Island.

The Board questioned the applicant concerning noise levels; potential pollution; plans for notification of emergency to residents; location of landscaping; lighting.

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The Board's questions and concerns were all addressed by the Iroquois representatives.

Mme. Chair: Tree Commission had comments concerning trees being planted in the right of way. Thought they should be on Iroquois' property.

Landscape architect: Explained why the landscaping had to be done in this manner.

Ms. Rose: Motion to approve the application.

Mr. Goodrich: Second.

All members voted in favor. Motion was approved unanimously.

The Board agreed with Ms. Parkins that the color green should be used for the color of the facilities.

F. PROPOSED REGULATION CHANGES

Mr. Sulkis: Discussed the handout he gave the Board members concerning word changes pertaining to definitions as they apply to basement counts as story and building heights. This will be an ongoing process.

Discussion followed concerning how any regulation changes would affect height measurements, basement and story definitions, added on structures, and removal of contradictions within the regulations. Agreed that most of the applications that come into question where these changes are being considered are in flood zones along the shoreline where the lots are significantly smaller than in other areas of the City.

G. LIAISON REPORTS

Ms. Rose: Historic Preservation Committee. First meeting is scheduled for April 8, 2008. Will be held the second Tuesday of each month in Conference Room A in the Parsons Center.

South Central Connecticut Regional Council of Governments: There were two applications pertaining to Milford which were brought before the Council. These applications will be coming before the Board in the future.

Mrs. Patterson: Police Commission: Working on possible changes to benefit the Devon area.

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H. APPROVAL OF MINUTES – (2/5/08)

Mr. Goodrich: Motion to approve the minutes.

Mr. Liddy: Second.

The Minutes were approved as recorded.

I. CHAIR REPORT

Janet Golden is not present due to illness.

Read her thoughts to the Board regarding reciting the Pledge of Allegiance at each meeting. She stated that the Pledge of Allegiance would be added to the agenda. A moment of silence will be taken at appropriate times when called for in the future.

A summary report of her work activities for 2007 as Zoning Enforcement Officer was prepared by Linda Stock and distributed to the Board.

J. STAFF REPORT

Mr. Sulkis: He was notified by the Water Company they will be looking to sell a parcel of land on Burnt Plains Road. Had a meeting with the Open Space Committee. In the process of evaluating whether the City wants to pursue this for open space.

Mr. Ferrante: Motion to adjourn.

Mr. Vetter: Second.

The meeting adjourned at 10:05 p.m.

Phyllis Leggett, Board Clerk