

**MINUTES FOR THREE (3) PUBLIC HEARINGS
OF THE PLANNING AND ZONING BOARD
HELD MONDAY, FEBRUARY 24, 2014 AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET
(THIS MEETING WAS RESCHEDULED FROM FEBRUARY 18, 2014)**

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

MEMBERS PRESENT: Michael Dolan, John Grant, Jeanne Cervin (Vice Chair); Edward Mead, Carl Moore, Tom Nichol, Tom Panzella, Jim Quish, Benjamin Gettinger, Chairman.

NOT PRESENT: Terrence Copeland

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

Chairman Gettinger: Announced the 121 West Main Street application has been postponed to the March 4, 2014 meeting.

- C. 1. 8-24 APPROVAL** – Request for the lease, sale or transfer pursuant to CGS 8-24 for AT&T to erect a cell tower for Police Department use at Eels Hill Road, for the City to accept ownership of such tower from AT&T once construction is completed and for the cell tower to be leased to AT&T, or its subsidiary.

Anthony Gioffre III, Esq., Cuddy & Suder, 445 Hamilton Avenue, White Plains, NY. Explained the application by AT&T Wireless to replace the existing cell tower at City owned property on Eel's Hill Road. The size of the property is approximately eight acres and is used for emergency communications equipment for the City. The present tower cannot accommodate AT&T's equipment and AT&T is seeking lease the property and replace the existing 100-foot tower with a 130-foot tower that would be able to accommodate AT&T's antennas and transfer over all the emergency communications equipment that is on the existing tower. Attorney Gioffre referred the Board to the in depth information they received on this application for the new tower and the lengths AT&T went to with regard to demonstrating the height of the new tower and the limited effect it would have in this location and other areas of Milford.

Staff and the Board had no comments or questions.

Motion: Ms. Cervin made a motion for approval of the proposed new cell tower for use by the Police Department and the City's emergency services.

Second: Mr. Nichol, second.

Discussion: None.

In favor: All Board members voted in favor.

Motion: Carried.

- 2. 8-24 APPROVAL** – Request for sale or transfer pursuant to CGS 8-24 of Colonial Avenue/Riverside Drive passways, exclusively to the abutting property owner(s), as depicted on the attached maps.

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This item had previously been approved by the Planning and Zoning Board in 2010. Mr. Sulkis did not know the purpose of this 8-24 request. There was no one from the City to present this request.

Motion: Ms. Cervin made a motion to table this item awaiting further clarification as to why it was placed on the agenda.

Second: Mr. Mead – second.

Discussion: There was no discussion.

In favor: All Board members voted in favor.

Motion: Carried.

D. OLD BUSINESS

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

Section 6.2 – Non-Conforming Uses

Section 6.2.6 – Discontinuance

Section 6.3 - Non-Conforming Structures

Section 6.3.6 - Restoration

Chairman Gettinger announced the City Attorney had sent the Board a memo to consider for tonight's meeting.

He stated it was his understanding that the City Attorney is recommending that the Board vote to reconsider the regulations and then table the discussion until someone from the City Attorney's office could be present at the next meeting.

Mr. Sulkis: This memo came out after he had left the office that evening and he had not had a chance to review it.

Chairman Gettinger: Stated he would prefer the City Attorney be present to answer any questions. He asked that the Board vote on the Motion to Reconsider, table it and have the City Attorney's office answer the questions that are posed. The Board can act accordingly after that.

Motion: Chairman Gettinger made a motion to reconsider the proposed regulation text change petitioned by the Mayor and have it tabled to the March 4th meeting.

Second: Mr. Grant second.

Discussion: None.

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In favor: Dolan, Grant, Gettinger, Moore, Quish.

Opposed: Cervin, Mead, Nichol, Panzella.

Motion: Carried.

Chairman Gettinger: Item D 3. Old Business, will be tabled to the next Planning and Zoning meeting scheduled for March 4, 2014.

4. 23 PLATT STREET (ZONE R-7.5) (TABLED FROM 2/4/2014)

Petition of Robert Stevens for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 30, Block 639, Parcel 39, of which Robert Stevens is the owner.

Robert Stevens, owner, 23 Platt Street. Returned to the Board to present the information that was left out of the plans he presented to the Board at the February 4, 2014 meeting. The Board received a new CAM report which corrected the typographical error that was made.

Ms. Harrigan: Noted that more information on the proposed attic was requested by the Board, as the attic plan was not included in the plans that were presented at the last meeting. She explained the three story rule in the regulations for the newer Board members, and that the newly constructed homes that are elevated have limited storage space, as the garage portion of the premises is considered a story. An attic with stairs helps the storage situation. The attic cannot be converted into another living floor and would be a zoning regulation. She gave the parameters for the use of an attic. If the attic meets the allowed criteria, the applicant files an attic agreement not to use the premises for living purposes, which is filed on the land records.

Motion: Mr. Mead made a motion to approve the application for 23 Platt Street with the stipulation that the attic agreement not to use the unfinished attic as living space, but only for mechanicals and storage, be signed and filed on the land records.

Second: Mr. Nichol second.

Discussion: None.

In favor: All members voted in favor of the motion.

Motion: Carried.

E. PUBLIC HEARING (LEFT OPEN) – Close by 3/11/2014; expires on 5/15/2014

- 5. 121, 123 AND 131 WEST MAIN STREET (ZONES RO and SFA-10) –** Petition of Metro Star Capital, LLC for Zone Boundary Change and Site Plan Review approval to construct a mixed use building with 48 residential units and office space on Map 65, Block 321, Parcels 19, 20 and 24A, of which 121 West Main Street Associates, LLC is the owner.

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(POSTPONED TO MARCH 4, 2014 MEETING)

Chairman Gettinger made an announcement to the public about the postponement.

F. PUBLIC HEARINGS – Close by 3/25//2014; expires on 5/29/2014

6. **167 MORNINGSIDE DRIVE (ZONE R-10)** Petition of Keith Malia for Special Permit and Coastal Area Management Site Plan Review approval to construct a new flood erosion control structure on Map 30, Block 613, Parcel 1, of which Phyllis Boynton is the owner.

John Hilts on behalf of the applicant to explain the project which is the construction of a sea wall at the property. This is the only unwallled property for approximately one mile along that particular section of the coastline. The current situation is a highly eroded bank adjacent to Morningside Drive where it turns. On the west side of the property there is an occupied dwelling that is also endangered by the erosion of the bank. The proposed work would be the construction of a concrete sea wall with swaling and removal of additional soils at the time of the grade in order to lower the overall grade of the property. Completed grading will include salt resistant plantings and scour protection at the base of the wall in order to preserve the tow.

Ms. Harrigan: John Gaucher from the State DEEP came before the Board last meeting. He had distributed a letter at the last meeting for the flood erosion control structure at those particular addresses. The letter also included information about this project at 167 Morningside Drive. Wanted to make sure the Board was aware the letter pertained to both projects.

Questions were asked as to how construction of the wall would take place and construction access to the area. Mr. Hilts explained via the site plan how this would be accomplished. It was noted that the erosion problems on the City side will be taken care of as well. Mr. Hilts explained how this will be done. The two adjacent properties will also be improved by this process.

Chairman Gettinger: Opened the hearing to the public and the public speaking procedure was explained. No one came forth to speak in favor of the application. Asked if anyone wished to speak against the application.

Thomas O'Loughlin, 30 Hilldale Court, one of two properties adjacent to the subject property. Concerned that if the land is lowered substantially, by approximately eight feet. Concerned it will create a problem for all the adjoining properties, including the Boynton property. Asked if there was a study done as to the land elevation and where the water will go.

Calvin Block, 39 Hilldale Court, two houses down. Not against but has a question about the Army Corps of Engineer signing off on the seawall. Do they sign off on any impact this project may have in the future.

Mr. Hilts: The wall is owned by the City.

Ms. Harrigan: It was an Army Corp of Engineer project. It was designed by the Army Corps of Engineers and probably paid for with Federal money. There are other projects like this in the City of

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Milford. The Army Corps of Engineers turns it over to the City for maintenance. It then becomes the City's responsibility for any future work required for that project.

Mr. Hilts: The City Engineer has been working with them on this project to make sure that it will work where the two walls intersect. Want to make sure that site is stabilized as well as the site property.

He further explained how the drainage and grading of the subject property will not adversely affect any neighboring properties.

Ms. Harrigan: Noted that this is a waterfront site and when a house is planned for this property it will have to come before the Board for its review. The City engineer did not have any issues with this application. He will review it again when a house is proposed for the property.

Axle Kirstein, Hildale Court. The parallel street to Morningside Drive is Hildale Road. How will the water runoff on that street be handled?

Mr. Hilts: The overall grade of this property will be lowered at the applicant's expense, by running the grades to the seawall. Overall intention is not to create a problem with water runoff to other properties.

No other questions.

Motion: Mr. Nichol made a motion to close the public hearing.

Second: Mr. Panzella second.

Mr. Nichol: Made a motion to approve the application of 167 Morningside Drive.

Mr. Grant: Second.

Ms. Harrigan: Recommended the finding be a part of the motion as follows: The proposed flood erosion control structure is necessary and unavoidable, as its installation would protect an adjacent municipal revetment and prevent future undermining of City infrastructure.

Motion: Ms. Cervin made a motion to approve the application with the addition of the finding as stated by the Assistant City Planner.

Second: Mr. Quish second.

Discussion: None.

In favor: All members voted in favor of the motion.

Motion: Carried.

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7. **16 BRIDGEWATER AVENUE (ZONE R-5)** Petition of Mark Pucci for Special Permit and Coastal Area management Site Plan Review approval to construct a new single family residence within 25 feet of high tide on Map 13, Block 139, Parcel 3, of which Mark Pucci, 16 Bridgewater LLC is the owner.

Mark Pucci, 2 Broad Street, the applicant for 16 Bridgewater Avenue to construct a single family residence. On December 3, 2013, the former Board approved this application. Since then the application had to be revised slightly due to a change in the site plan from that approval. The Soil and Erosion Control Plan and a portion of the house plans had to be changed slightly. He explained he had planned on using 20 Bridgewater for stockpiling the excavation material and dumpster location. Since then the adjacent lot has been sold, so the material has to be trucked off site and store a dumpster on the property during construction. There are no other changes to the house plan or the site plan.

Ms. Harrigan: Explained why the new situation had to come back to the board.

The chair opened the hearing to the public. No one to speak in favor or against the application.

Motion: Mr. Nichol made a motion to approve the application for 16 Bridgewater Ave.

Second: Mr. Panzella second.

In favor: All members voted in favor.

Motion: Approved.

8. **2 LAWRENCE COURT (ZONE R-5)** Petition of Peter Crabtree for Special Permit and Coastal Area Management Site Plan Review approval to construct a new single family residence within 25 feet of high tide on Map 28, Block 579, Parcel 3, of which Allen and Terry Desrosier are the owners.

Peter Crabtree, 64 Stanley Street, New Haven. Former house on the property was built in 1925 and has been demolished, except for the sea wall. A variance was obtained for the site last August. Application is to build a new two-story house. There will be no stairway access to the attic. Information sent to John Gaucher at DEEP who suggested the sea wall be removed. In a V zone, elevation 13, going to 15 with the elevation and will be flood zone compliant. The owner would like to leave the seawall. They met with the DEEP and based on two past storms they felt the splash effect would be damaging to the house in the event of another storm. A letter was sent up to DEEP for their evaluation. The Boston DEEP office ruled on this matter as well. They said it should be done but did not have to be done. After the house is constructed, should the owner wish to remove the seawall, he can do so with minimal problems and at his own expense.

The neighbor toward Stratford has a seawall, the other two neighbors toward New Haven do not have seawalls but one of the homes is built on piers.

All excavation materials will be moved off site.

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Ms. Harrigan: Did not think the DEEP offices mandated that the sea wall be removed.

Board members questioned the location of the sea wall for the adjacent properties on either side of the subject property with regard to the splash effect. Ms. Cervin questioned the increase in impermeability on the property. Mr. Crabtree responded.

Chairman Gettinger opened the hearing to the public.

Paul Daniels, 45 Lawrence Ave, lives around the corner. Recommends approval because it is consistent with the adjacent properties and is consistent with the properties along the Milford shore by upgrading the properties along the coast.. Recommended leaving the sea wall as it has served the area well for a long time.

No one to speak against the application.

Motion: Mr. Nichol made a motion to close the public hearing.

Second: Mr. Grant second.

In favor: All members voted in favor of closing the public hearing.

Motion: Nichol made a motion to approve 2 Lawrence Court leaving it up to the owner as to whether the sea wall will be removed or to remain.

Second: Mr. Grant.

In favor: All members voted in favor of approval.

Motion: Approved.

G. LIAISON REPORTS

Mr. Mead: Attended the Police Commission meeting last week. Four projects were voted on for traffic study: One was 16 Bridgewater Ave; a gas station on Naugatuck Avenue and Milford Point Road, and a large 8-30g project.

H. APPROVAL OF MINUTES – (2/4/2014)

Motion: Made by Mr. Grant to approve the Minutes.

Second: Mr. Gettinger.

Discussion: None.

In favor: All members voted in favor.

Motion: Approved.

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I. CHAIR'S REPORT

Chairman Gettinger: Apologized to Ms. Cervin for comments he had made at the last meeting.

J. STAFF REPORT

Mr. Sulkis: Asked if the Board received the Mayor's memo he had emailed to them.

Discussion: Ms. Cervin wanted to ask the City Attorney for a legal opinion on the Mayor's action.

Motion: Ms. Cervin made a motion to ask the City Attorney for a legal opinion on the Mayor's action to address specific items she wanted addressed by him. .

Second: Mr. Panzella second.

Discussion: Chairman Gettinger did not feel it was the Board's role or authority to question or challenge decisions made by the Mayor. Ms. Cervin stated she wanted an explanation of his actions and felt it was in the Board's purview to do this.

Chairman Gettinger: Asked for a motion to add this matter as New Business on tonight's agenda?

Motion: Mr. Gettinger made a motion to add the Mayor's memo for discussion to tonight's agenda.

Second: Ms. Cervin second.

Discussion: Chairman Gettinger and Vice Chair Cervin repeated their views on the issue.

In favor: Cervin, Mead, Nichol, Panzella

Opposed: Dolan, Grant, Gettinger, Moore, Quish

Motion: Failed.

Ms. Cervin: Asked if this matter could no longer be discussed as a board after this vote.

Chairman Gettinger: Would need a legal opinion. It was denied tonight.

Mr. Sulkis: It can be added to the next agenda if a member or the Board wants it to be.

Motion: Mr. Panzella made a motion to take up the Mayor's action as an agenda item for the next Planning and Zoning meeting.

Second: Ms. Cervin.

Discussion: Chairman Gettinger restated his opinion that the Board should not interfere in the City's decisions . A vote against the Mayor would be moot as the Board had no authority to challenge it..

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Ms. Cervin disagreed as did Mr. Sulkis. Mr. Grant agreed with the Chairman.

There was a motion and second on the floor to add this as a new item on the March 4th agenda.

In favor: Cervin, Mead, Nichol, Panzella.

Opposed: Dolan, Grant, Gettinger, Moore, Quish.

Motion: Failed.

Mr. Grant: Motion to adjourn.

Mr. Nichol: Second.

All members voted in favor of adjourning the meeting at 9:22 p.m. The next meeting will be held on Tuesday, March 4, 2014.

Phyllis Leggett

Phyllis Leggett, Board Clerk