

PLANNING AND ZONING BOARD MINUTES FOR ONLINE MEETING HELD TUESDAY 6 APRIL 2021, 7:00 PM

The meeting of the Planning and Zoning Board came to order at 7:00p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: N. Austin, J. Castignoli, J. Kader, B. Kaligian, J. Mortimer, C.S. Moore, J. Quish, R. Satti, M. Zahariades

Not Present: P. Kearney

Staff: Joe Griffith, DPLU Director, David Sulkis, City Planner; Meg Greene, Rec. Sec'y

C. NEW BUSINESS:

VOTE BY JUNE 17, 2021

- 1) **20 Seaview Avenue** (Zone R-10) Petition of Thomas Lynch, Esq. for a Coastal Area Site Plan Review for a proposed single-family dwelling on Map 9, Block 79, Parcel 11 of which CANDY LLC is the owner.

Attorney Lynch, 63 Cherry Street, introduced his clients and the project team. He reviewed the plans for a new 4600 sf elevated house. He said the lot is nonconforming but there had been no variance requests. He said the residence is in the AE flood zone but is outside the area requiring a Special Permit.

Ron Wassmer, PE, 158 Research Drive, provided more detail on the plans and reviewed the Coastal Area Management Report.

John Wicko, architect, AIA, presented the elevations. He said the first floor conforms to flood mitigation requirements and is on a slab with flood vents in the garage. He said there is living space on the first floor, bedrooms on the second, and attic space on the third. He described a tower that uses the 15% rule for projections. He said a river-stone base will be used as well as shingles, a fiberglass slate roof, and high-wind clad windows. He said the design met all the Laurel Beach deeded requirements as well as the zoning regulatory requirements.

Mr. Sulkis said no adverse coastal impacts were expected. He explained the 15% projection rule.

DISCUSSION

Mr. Satti asked **Mr. Wassmer** to provide detail on the foundation; **Mr. Wassmer** said the current concrete basement will be removed and converted to a slab on grade. **Mr. Satti** praised the quality of Mr. Wicko's design, as did **Chairman Quish**.

Mr. Kader move to approve as presented the Petition of Thomas Lynch, Esq. for a Coastal Area Site Plan Review for a proposed single-family dwelling on Map 9, Block 79, Parcel 11 of which CANDY LLC is the owner.

Second: Mr. Moore seconded.

Discussion: None.

Vote: Motion carried unanimously

- 2) **59 Hillside Ave Zone** (R-5) Petition of Thomas Lynch, Esq. for a Coastal Area Site Plan Review for a proposed single-family dwelling on Map 48, Block 724, Parcel 2 of which Nicholas Aquilina is the owner.

Attorney Lynch said the lot was legal but nonconforming and that a variance of the side-yard setback had been granted by the Zoning Board of Appeals. He said the lots are narrow along the street and that the house conforms with many of the reconstructed homes. He reviewed details of the house's construction. He said a small portion of the deck is in the VE zone so rather than make the entire house conform to the VE zone requirements, the deck is being constructed as a structurally separate. He described a conversation between City Engineer Greg Pidluski and Project Lead Jeff Gordon where agreement was made that the City Engineer's revisions could be supported and should be made a condition of approval.

Mr. Sulkis said no adverse coastal impacts were expected but advised that satisfactorily addressing issues raised by the Inland Wetlands Agency and City Engineer should be made a condition of approval.

DISCUSSION

Mr. Mortimer got clarification that the detached deck is separated by about an inch.

Mr. Satti move to approve with modifications the Petition of Thomas Lynch, Esq. for a Coastal Area Site Plan Review for a proposed single-family dwelling on Map 48, Block 724, Parcel 2 of which Nicholas Aquilina is the owner.

PLANNING AND ZONING BOARD MINUTES FOR ONLINE MEETING HELD TUESDAY 6 APRIL 2021, 7:00 PM

Conditions:

Applicant will address the comments made in 2 letters, each dated 4/5/21, one from the City Engineer's Office and the other from the Inland Wetlands Agency to the respective satisfactions of the City Engineer and the Inland Wetlands Officer.

Second: Mr. Kader seconded.

Discussion: None.

Vote: Motion carried unanimously

- 3) **117 Hawley Avenue** (Zone BD-1) Petition of Kevin Curseaden, Esq. for a Coastal Area Site Plan Review for proposed construction of a two-family dwelling on Map 60, Block 742, Parcel 9, of which Jennifer Federico is the owner.

Attorney Curseaden, 3 Lafayette, said the application was in a BD zone close to the old Scribner's Restaurant. He described the BD zone regulations and noted that the home was a 2-family that had previously been owned by his client's father. He presented the elevations and described plans for height and flood mitigation.

Mr. Sulkis said parking was provided despite the lack of a parking requirements in the zone. He said the BD zone had been established to support small business hubs in older, developed neighborhoods.

DISCUSSION

Mr. Satti moved *to approve as presented* the Petition of Kevin Curseaden, Esq. for a Coastal Area Site Plan Review for proposed construction of a two-family dwelling on Map 60, Block 742, Parcel 9, of which Jennifer Federico is the owner.

Second: Mr. Castignoli seconded.

Discussion: None.

Vote: Motion carried unanimously. **Chairman Quish** remarked that the design was well done and would be an asset to the neighborhood.

D. PUBLIC HEARINGS

VOTE BY JUNE 24, 2021

- 1) **67 Prospect Street** (Zone MCDD) Petition of Patrick Rose, Rose Tiso and Company, for a Site Plan Review with a Coastal Area Site Plan Review for a proposed Mixed Use Commercial Building on Map 54, Block 817, Parcel 6, of which 67 Prospect Street LLC is the owner.

Chairman Quish reminded the group that the hearing had been closed. He said Mr. Sulkis could answer questions from the board.

Mr. Castignoli moved *to approve with the following modifications* the petition of Patrick Rose, Rose Tiso and Company, for a Site Plan and Coastal Area Management review for a proposed Mixed Use Commercial Building on Map 54, Block 817, Parcel 6, of which 67 Prospect Street LLC is the owner.

Conditions:

- 1) The original house shall be restored in accordance with the stipulated judgment (9/21/20) between 67 Prospect Street, LLC, and the Milford Historic Preservation Commission, et al, in its entirety, including a requirement that the original house siding be rehabilitated with wood and a bronze plaque be installed.
- 2) Any future discharge of water and runoff from the site shall be the sole responsibility of the owner of 67 Prospect Street
- 3) All trees to be installed along the north-northwestern lot line (directly to the left of Baldwin House) shall be a minimum of 15 feet tall when application for Certificate of Occupancy is made.

Second: Ms. Austin seconded.

Discussion: **Mr. Satti** verified that the motion as read reflected Mr. Castignoli's thinking when the motion was made; **Mr. Castignoli** stated that the motion was accurate. **Mr. Mortimer** and **Chairman Quish** discussed the extent and limitations of the board's discretion under Section 7. **Chairman Quish** noted that the project had already gone to court and some accommodation had been made. **Mr. Kader** expressed inner conflict in that he supports residents living close to downtown and supporting local businesses, whereas he also wished that the apartment project had a smaller scale. **Chairman Quish** said he agreed and that was why he requested a screen of tall trees. **Mr. Castignoli** agreed with the chairman, saying he had visited the site and thought the landscaping would make the building less obtrusive. They discussed the sight lines from the street. **Mr. Satti** said he carefully read the case submitted by Attorney Lynch and that he thinks that the board still has discretion and should vote their consciences.

Vote: The motion carried with 5 votes in favor and 4 opposed.

WITH THE MOTION: N. Austin, J. Castignoli, J. Kader, B. Kaligian, J. Quish

AGAINST THE MOTION: J. Mortimer, C.S. Moore, R. Satti, M. Zahariades

- 2) **Proposed Regulation Change #21-3** Proposed by the City of Milford for changes to Article 5, Planning and Zoning Board, Section 5.20 Amendments: for Extension of Outdoor Dining Executive Order 7MM.

Chairman Quish said the proposed change had not come from the subcommittee but from staff and asked Mr. Sulkis to elaborate.

Mr. Sulkis reviewed the history of the executive order for the pandemic and the implications for local restaurants after the order expires. He said the proposed regulation change was designed to codify to support for the practice of outdoor dining after the expiration of the executive order such that outdoor dining will conform to regulations.

DISCUSSION

Mr. Satti asked why the change was needed now. **Mr. Sulkis** said the use of some outdoor dining was underway in accordance with the executive order but that without the executive order in place, every restaurateur who had set up outdoor dining without being permitted under previously existing regulations would have to cease the practice. Mr. Sulkis said that under current regulations, restaurants can apply for a Special Permit to have outdoor dining based on site constraints, and that many would not qualify under normal regulations. He noted that the executive order overrides zoning except where health and safety may be put at risk. He said the goal of the proposed change was to be business-friendly and allow uses to continue until March 31, 2022. **Mr. Satti** asked about the date; **Mr. Sulkis** said this was the sunset date of a similar legislative bill expected to be signed by the governor. **Mr. Satti** then asked why the board would not be empowered to extend or sunset the regulation and that he perceived the language as taking power away from the board. **Mr. Moore** asked what consequences would follow if there was no extension of outdoor dining. Mr. Sulkis said the city's recourse for noncompliance would be to sue the violators as there is no ability to fine them. **Mr. Castignoli** asked if Mr. Sulkis recommended passage; **Mr. Sulkis** said yes, in some form. **Mr. Kader** expressed support for the proposed change. **Mr. Sulkis** said in the current regulations, there is an annual sidewalk seating permit already supported which is a little less restrictive than the executive order. **Mr. Mortimer** said he supported looser restrictions to help businesses survive.

Chairman Quish asked for public comment.

FAVOR

Donna Dutko, 236 Buckingham, said she felt the expansion of outdoor dining gives a great, friendly image to Milford. She felt that rather than allowing the expiration date to be extended with administrative approval, there should be a finite expiration date.

Ellen Beatty, 32 Elm St, said she enjoys eating outdoors and thinks it's beneficial for local businesses. She agreed that the board should be involved in potential extensions, saying a sunset creates a requirement for deliberation on a regular basis.

Mr. Sulkis said that when the administrative line was added, the sunset timeframe was set for December 2021 and there was much more uncertainty about the extent of any state legislative action.

Chairman Quish invited further comment.

Hearing none, he closed the hearing.

Chairman Quish asked for board deliberation. **Mr. Kader** said he would like to see the restrictions be made permanent to help sustain restaurant businesses and because he feels it's consistent with the charm of the city. **Mr. Sulkis** said that if the 2nd line from last line were deleted (namely: *"Said expiration date may be extended with administrative approval and no Planning and Zoning Board approval shall be necessary."*), the board could create or change the regulations prior to expiration of the regulation. He said the March 31, 2022 sunset date provides a deadline to rethink the idea. **Mr. Moore** said the regulation subcommittee should make the change and the item could be left open. **Mr. Sulkis** said the regulation could be modified without opening another public hearing. **Chairman Quish** said the idea that relaxing the outdoor dining regulation has been a benefit, even if it might be redundant if the governor signs the executive order. He said he approved of the idea of the regulation coming back to the board in a year. **Mr. Satti** said the board members had made excellent points but wondered if the board should make the change without analyzing the possible effects. He suggested waiting a month. **Mr. Sulkis** said the order would expire 4/15. **Chairman Quish** noted that if for some reason the governor did not sign the order, those who are serving outdoors now would not be allowed to do so in 2 weeks. **Mr.**

PLANNING AND ZONING BOARD MINUTES FOR ONLINE MEETING HELD TUESDAY 6 APRIL 2021, 7:00 PM

Satti respectfully disagreed with Chairman Quish. He said the executive order also includes items like opening public buildings. **Chairman Quish** said that in Milford, a certain number of tables are permitted under the supervision of the Health Department, and if the governor doesn't extend the order, eateries seating currently permitted would become illegal. **Mr. Sulkis** said the regulation was created in consultation with City Attorney's Office, the Economic Development Office, and DPLU, to prevent possible disruption of ongoing business. **Mr. Kader** said if the previously mentioned line of text were removed, the board would have a year to figure out what to do and the board would retain control. **Mr. Sulkis** noted that this regulation primarily affects places outside the downtown area like Pops Restaurant, where a portion of a parking lot or a landscaped area has been used to provide more outdoor dining.

Chairman Quish asked for a motion.

Mr. Castignoli moved to approve with a modification the Regulation Change #21-3 Proposed by the City of Milford for changes to Article 5, Planning and Zoning Board, Section 5.20 Amendments: for Extension of Outdoor Dining Executive Order 7MM. Modification: removal of a line of text pertaining to board oversight, namely: "*Said expiration date may be extended with administrative approval and no Planning and Zoning Board approval shall be necessary.*" Effective date is April 23, 2021.

Second: Mr. Mortimer seconded.

Discussion: None.

Vote: Motion carried unanimously.

D. OLD BUSINESS – None

E. NEW BUSINESS – None

F. LIAISON REPORTS– None

G. SUBCOMMITTEE REPORTS– ongoing activity.

H. APPROVAL OF MINUTES—3/16/2021 minutes were approved unanimously.

I. CHAIR'S REPORT -None.

J. STAFF REPORT - None.

K. ADJOURNMENT was at 8:25.

Attest:

M.E. Greene

New Business, not on the Agenda, may be brought up by a 2/3's vote of those Members present and voting.

ANY INDIVIDUAL WITH A DISABILITY WHO NEEDS SPECIAL ASSISTANCE TO PARTICIPATE IN THE MEETING SHOULD CONTACT THE DIRECTOR OF COMMUNITY DEVELOPMENT, (203) 783-3230, FIVE DAYS PRIOR TO THE MEETING, IF POSSIBLE.