

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, MAY 5, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the May 5, 2009 Public Hearing of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Frank Goodrich, Janet Golden, KathyLynn Patterson, Kevin Liddy, Susan Shaw, Gregory Vetter, Victor Ferrante, Jeanne Cervin, Chair.

Not Present: Kim Rose, Mark Bender

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

Mme. Chair: Asked for a motion to reorder the agenda.

Mrs. Patterson: Made a motion to move the New Business item, 566 Bridgeport Avenue, to number one on the agenda and to move item number two to become the second item.

Mr. Goodrich: Second.

All members voted in favor.

C. NEW BUSINESS

2. **566 BRIDGEPORT AVENUE (ZONE CDD-3)** Petition of Key Hyundai of Milford for a Site Plan Review to erect a 20 x 40 foot tent from May 15 to June 30, 2009 for a promotional event on Map 25, Block 385, Parcels 11 and 12, of which LJ2, LLC is the owner.

Jeff Merriam, Key Hyundai, 566 Bridgeport Avenue. Requested the Board's approval to erect a tent, 20 x 40 feet for a national tent event from May 15 to June 30, 2009. Key Hyundai will be paying for the tent rental, but an outside company will erecting it.

Mme. Chair to Staff: Asked if only the Fire and Police Departments reviewed this application.

Mrs. Harrigan: Spoke to Sgt. Sharoh about this and he felt there would be no impact on traffic for this event.

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Mr. Goodrich: This application is similar to many others that the Board has approved for various businesses.

Made a motion to approve the erection of a temporary tent at 566 Bridgeport Avenue, Key Hyundai.

Mr. Vetter: Second.

All members voted in favor. Motion passed unanimously.

C. PUBLIC HEARING CLOSES BY 6/9/09; exp. 7/9/09

1. **314 BRIDGEPORT AVENUE (ZONE CDD-2 AND R-7.5)** Petition of Brian Lema, Esq. for a Special Exception and Site Plan Review to construct a 10-unit multi-family residential building with off-street parking on Map 24, Block 381, Parcel 1, of which D.A. Black, Inc. is the owner.

Brian Lema, Esq., Berchem Moses and Devlin, 75 Broad Street, Milford, representing the applicant, D.A. Black, Inc. for the Board's approval to construct 10 one bedroom condominium units. Rose Tiso & Company is the architect for the project. Materials were submitted, including photographs, for the Board's review and reference during the presentation.

The application is for a Special Exception and Site Plan approval to construct a 10,694 SF building containing 10 one-bedroom residential units. There is approximately .36 acres or 15,561 SF of lot area located in the CDD-2 zone, which allows multi-family residential use. Since this application is not for a mixed use (no commercial component) a Special Exception is required.

Section 7.3.1 of the Regulations, as it refers to Special Exceptions, provides that the Board consider the nature, location, size, intensity and site layout of the use and determine that it is in harmony with the appropriate and orderly development of the area in which it is situated. The applicant believes that this application meets those standards. The property is located along a section of Bridgeport Avenue that can be described as transitional. There are multi-family residences in the area along with business uses of all types, as well as a church nearby. There are many signs of redevelopment on Bridgeport Avenue as well as neighboring Naugatuck Avenue.

In April 2008 the Board approved such a permit for the construction of 10 two-bedroom units at 364 Bridgeport Avenue where a gas station once stood. That parcel contained approximately .6 acres, or 25,000 SF of lot area, which is about 10,000 SF larger than the size of this application and was a larger project. In 2002, another comparable property was approved at 274-278 Bridgeport Avenue, for an eight unit project in an area that was deteriorated and had been used for the storage of abandoned vehicles and even had some environmental problems.

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The proposed project complies with Section 7.3.1 of the Regulations. It is less intense than the other residential developments in the area. It is limited to one bedroom units. It has fewer bedrooms per square foot of lot area. It is located in an area with municipal services.

This project is the appropriate type of development identified in the City of Milford's Plan of Conservation and Development, especially the portion of the Plan that refers to the Devon area. The people who will live in this development will utilize the commercial services of the area.

The site is improved with two driveway aprons and curb cuts along Bridgeport Avenue. There is no curbing and essentially one wide open strip of pavement along Judson Place. The curb cuts will be eliminated on Bridgeport Avenue. The current sidewalk will be replaced with a new sidewalk along Judson Place for the entire length of this property. The driveway would be located along Judson Place so that the vehicle access to Bridgeport Avenue would be controlled at the existing stop sign at the intersection of Judson Place and Bridgeport Avenue. The Police and Fire Departments have reviewed the project. The Police Department's review found the traffic impact of the project would be acceptable. The parking spaces including the handicapped space meet the requirements of the Regulations.

The project also meets the guidelines of the Devon Design District as noted in the Zoning Regulations. There are two entrances to the main building that are oriented toward Bridgeport Avenue. A pedestrian orientation toward Bridgeport Avenue has been established while eliminating vehicular access onto Bridgeport Avenue.

Mr. Lema described the esthetics of the design of the building; meeting the guidelines for screening mechanical equipment; the roof treatments; the color and materials used in the façade of the building. Parking lot is screened with landscaping and fencing. There is a natural 10 foot buffer existing between the edge of this property and the neighbor's property.

Curb cuts are in compliance with the 25' curb cut along Judson Avenue. There is no signage on the property other than street number signage. Landscaping and the height of the building are in compliance with the Special Exception portion of the Regulations.

Open space will be consistent with the other residential developments of this type. This project provides the Board with an opportunity to have a new streetscape along Bridgeport Avenue, which is consistent with the Plan of Conservation and Development. The building also complies with the architectural standards set forth by the Board. Utility connections are proposed to be located underground. Utility meters are screened and the dumpster is completely enclosed. New street trees will replace the existing trees, which would be consistent with the recommendations of the Tree Commission.

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Open Space – The project proposes to have approximately 2500 SF of open space, which is an appendage that juts along Judson Place. It will be a courtyard/patio area with the balance being an open space buffer. The pedway provides some additional buffer. The size of the open space is consistent with the open space that the Board sought at 364 Bridgeport Avenue.

Mr. Lema again described how this project would benefit the present Bridgeport Avenue neighborhood.

Patrick Rose, Principal, Rose Tiso & Co., Project Architect. Site is approximately 101 feet deep, slightly shallow. Ten units, one bedroom each. The building is three stories tall. First portion of the building incorporates parking underneath. There are two units in the front of building that front onto Bridgeport Avenue. Access from the parking lot to the elevator and mailboxes will be located in the middle of the building. Rear of the facility behind the parking is a common patio area that will be screened on two sides with landscaping for residents' use. Showed where a six-foot fence will be located on two sides with landscaping in front of it. Described the location of the dumpster and the gas and electric meters which will be screened. Roof drainage will be underneath the parking lot. 60 galleries meet the runoff requirement. Overflow runs into a catch basin on Judson Place and Bridgeport Avenue. Described the placement of street trees on Bridgeport Avenue and Judson Place as well as additional landscaping planned for the property. Lighting plan and photometrics meet the zoning requirements.

Apartments are laid out very nicely for this size development. He described the façade of the building with regard to its design and the materials that will be used.

Received two sets of comments from Westcott and Mapes, the latest of which was responded to today, so they have not come back to the Board with their response.

Mme. Chair: Thanked the applicants for their comprehensive and thorough presentation. Asked Staff for their comments.

Mr. Sulkis: Complimented the presentation of this application.

Parking spaces 12 and 20 are below the size for parking standards. The applicant should explore a way of demonstrating that they can have fully conforming parking spaces in terms of size or all the sizes that they show. Would need more time to study the photometric survey and need more details and specifications on the fixtures to be used which were submitted tonight. Lighting at the front of the building should be shown even though it is on Route One.

Mr. Liddy: Asked if the apartments would be condominiums.

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Mr. Lema: Goal is that these would be condominiums, but not sure this will happen given the market conditions.

Mr. Liddy: Asked for a color rendition of what the back side of the building would look like.

Mr. Lema: Showed the rear of the building on a black and white elevation drawing which showed the architectural design.

Mme. Chair: It was her impression that the side façade of the building which faced Judson Place was very plain. Asked if this could be improved in some way.

Mr. Rose: The elevation is very flat, but there are some changes in depth.

Mr. Lema: Had worked with Staff to improve this elevation and this is an improvement over previous submissions. Not sure what else can be done.

Mr. Ferrante: Asked what would prevent people from parking in the patio area if things got crowded.

Mr. Rose: That area is covered by the curb on two sides.

Mr. Ferrante: Asked if the colors, materials and trim shown would be built exactly as shown.

Mr. Rose: Responded yes.

Mr. Ferrante: Asked about the pedway on the property and was it owned by all the adjoining neighbors and could it be fenced off?

Mr. Lema: Described the location, the rights of usage and it is ten feet of open space.

Mrs. Golden: Asked about the number of handicapped spaces.

Mr. Rose: One.

Mrs. Golden to Mr. Sulkis: Should there be two?

Mr. Sulkis: That is a building code issue.

Mrs. Patterson: Asked if at the patio area there will be a stop sign so pedestrians can cross to the patio area.

Mr. Rose: Correct.

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Mme. Chair: This building is an ideal use for affordable housing. Would that be a possibility?

Mr. Lema: Intention is to build market rate condominiums or apartments. This is of a very high scale and affordable housing would not lend itself to this quality of architecture and design of apartments.

Mr. Liddy: Spoke about varying the color of the building in an attempt to make it appear smaller. Asked if any energy saving measures were being incorporated in the construction of this building.

Mr. Rose: This is not a LEEDS designed project. This may change based on the building codes when the project is at that stage. The color aspect of the building can be reviewed.

Mme. Chair: Anyone to speak in favor of the application.

Agnes Bedell, 95 Hackett Avenue. In favor of the project but has some concerns, in that this project appears to be dense. The other similar projects of this type are large as well. Feels this will be an improvement in the area. Questioned the adequacy of the sewer system. In favor of condominium use for pride in ownership. Thought the project should be reduced to 7-8 units so the building would not be as large.

Nanci Seltzer, 74 Camden St. Conceptually likes the project but has a few issues. In the 10 units approved in the 364 Bridgeport Avenue development, she recollects the Board lowered the number of units to 8. This building is huge. Asked the Board to consider making this two buildings. There are three buildings on the site of the former gas station which are much smaller than this proposed building, so it is not harmonious with the neighborhood. Asked that the sidewalks and light posts be harmonious with those proposed for the Devon Revitalization Plan. Concerned about snow removal. This is a problem in this area. Does not want the residents burdened with the snow removal. Would like the sidewalks to be built in keeping with those that are currently in the area.

Mr. Liddy: Asked for an explanation about the sidewalks and light fixtures.

Ms. Seltzer: Sidewalks are two-toned. Type of light fixtures are on record at Planning and Zoning as well as Community Development.

Mme. Chair: Anyone to speak against?

No response.

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Rebuttal by Mr. Lema: Sidewalk and consistency with the street improvements being made toward the center of Devon, those sidewalks do not extend this far up on Bridgeport Avenue. Can work with Staff on the light fixtures. Snow Removal – worked out a plan with staff to store the snow on the patio area and open space area. There is not that much snow area to deal with.

Discussed the fact that it is a single building housing only one bedroom apartments, not two bedrooms. On the other Bridgeport Avenue project there were twelve units proposed and ten were approved. There will be a sewer study to determine whether the project can be tied into the Judson Place sewer. Right now sewage will go under Bridgeport Avenue to tie into the sewer line. The project has Sewer Department approval at this time for ten units.

Reducing the number of apartments: Analysis showed what is presented is less intensive than other uses. There must be a certain amount of density to justify this type of development. The site justifies it. There is sufficient parking, with an open public space area.

Mr. Rose: Addressed Mr. Sulkis' concern about the parking spaces. Believes the parking spaces can be reworked to total 20. Simple light fixtures for the front of the building are being proposed. Will present this photometric plan.

Ms. Seltzer: Devon Revitalization will be extending the sidewalks up to Camden Avenue and possibly beyond.

Mr. Lema: If the Board deems it important and necessary, the Applicant will accommodate the sidewalk change.

Mme. Chair: Will keep the public hearing open to receive four items:

1) parking space adjustments; 2) front and rear photometric plan with details of the lighting fixtures; 3) the engineering report; 3) snow removal plan.

A brief recess was taken from 9:04 to 9:11 p.m.

E. OLD BUSINESS

PUBLIC HEARING HELD 1/20/09; CLOSED 4/21/09; exp. 6/24/09

3. **12 FRANCIS STREET (ZONE R-7.5)** Pursuant to Sec. 7.1.3.14 of the City of Milford Zoning Regulations, the Planning and Zoning Board will review and consider whether to revoke the zoning permit issued to Joseph Voll on April 17, 2007, for work to be performed at the property located at 12 Francis Street,

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Assessor's Map 6, Block 84, Parcel 2, and owned by Antoinette Voll.**

Mme. Chair: Stated she would like this to be the final discussion on this matter with the intent of reaching a consensus in order to have Staff prepare a motion to be reviewed by Legal Department for the Board's next meeting. Stated she had not been present at the last meeting but have reviewed all the materials, seen the DVD of the meeting and would like to add her opinion to the matter before the Board.

"The copious amount of written material and accompanied verbiage that has been presented has at times seemed confusing and overwhelming, yet, when it comes down to it, we have one very simple question to answer: Did the original CAM provide accurate and adequate information for the Board to make a decision? My conclusion after extensive review of the material is "no" for the following reasons:

First, the statements in the CAM report itself:

On page 3, the reviewer states, "The beaches will not be disturbed...the building site is out of the beach area."

Page 4. The project would not significantly disrupt the natural environment. On the same page it was checked that there will be no degrading of the beach or dunes.

Page 7. 'No grading changes are proposed once the debris is removed.'

I would like to note here as a point of interest that in the material that the applicant presented to us at the last meeting the CAM report was included with significant pages (3, 5 and 7) missing – the pages that contained the most important information. I was able to refer to the complete copy that provided in the material given to the Board at an earlier meeting by our Assistant City Planner. I imagine, however, that we must view this as coincidental and as an oversight by the applicant.

Second: In the minutes from the original meeting which was on 9/16/06, Mr. Grew, the architect who presented the plans, is quoted as saying: "No grade changes are proposed to the existing grades."

Third: Regarding the issue of photographs that was introduced at the last meeting, the fact is that the photographs that Mr. Grew was referencing were not in the file. His letter of 4/15/09 states that he displayed additional photos on a mounted easel...if so, (and I question that), those photos were not circulated to the Board. He also wrote that 'the meeting room is much smaller (than the room where the ZBA meets) and could easily see easel'. Well, the fact is the meeting was held in this room...which I think it can be agreed is not a small room and is the very same room used by the ZBA. At best, I think this would call into question Mr. Grew's memory.

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Fourth: In the letter submitted from Mr. Lofthouse, a Board member at the time along with myself, Mr. Liddy and Mr. Goodrich, he states that the CAM report showed no negative impact and thus the Board made its decision with the information that it was given...with this I am in agreement.

Finally, after reviewing the letters from the DEP, the outline of inspections as reported by our Assistant City Planner; the aerial photos taken in the winter of 2006, before building began, that clearly depicted beach grass on the building site at that time; and the other photos taken by Mr. Gaucher in 2007 that clearly showed the beach disturbance after building began; it was obvious to me that the beach had indeed been regarded and beach grass covered...and, of course, that there was a pool foundation in place.

Also, having viewed the property myself, it is easy to see the regrading of the beach as well as the completed deck with the pool foundation underneath, that was built in spite of the C & D that is in place. It is hard to understand Mr. Voll's egregious disregard of the current C & D by completing the deck, especially so that this proceeding is ongoing.

I conclude with my recommendation that we direct Staff to prepare a motion for partial revocation of the zoning permit for a portion of the deck, which I believe would be 16 feet, and that we require that the pool foundation be removed and/or conform to the FEMA and National Flood Insurance Program standards, and that Mr. Voll be required to return to this Board for a Special Permit for regrading with a CAM application that also outlines a restoration plan, meeting the requirements of all agencies involved.

These are only my comments and my opinions. I would like everybody to weigh in on this issue, whether you agree or disagree. I may have left out some things that are important, so please feel free to add anything to what I have said."

Mr. Goodrich: Stated he thinks the Board is in agreement that beach grass should have been shown on the original application, but by the Regulations, sec. 7.1., in the CAM section says it is the Planning and Zoning Board's responsibility to make sure of the accuracy, not the applicant's. So if there was a mistake made, it is the Board's fault, not the applicant's.

Mme. Chair: Disagreed with that statement. The Board would assume that they would be receiving correct information from any applicant that presents information to it.

Ms. Shaw: Agreed with the Chair. Read from the regulations, which state that "an authorized site plan review shall be subjected to revocation by the Board if any conditions or safeguards imposed by the Board upon the land, building or structures, or uses per said permits are not strictly adhered to...". Said she did not feel that any Board member is disagreeing with the fact that the site plan was not strictly adhered to.

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Mrs. Golden: Agrees with everything that was said and this is of particular interest to her because of some of the research she had done on her own. Found it to be troublesome when she saw that those had been disturbed.

Mr. Ferrante: Concurred. The pool foundation is not even on the application that came before the Board. Ms. Harrigan demonstrated the error in the initial report.

Mr. Goodrich: The pool was in the original application. Does not remember every portion of the application, but it must be assumed that a pool, with the weight of the water, would have to have some type of foundation holding it up. Regarding the beach grass, he is sure he went out to the site and sure it was brought up by himself or someone else who was on the board that when the Board receives a CAM, staff has reviewed it, everything complies, and there is no reason to question the CAMs. The Regulations state it is the staff's responsibility to make sure the CAMs are accurate.

Mr. Ferrante: Explained that the foundation for the pool was not shown on the original application. Believes Mr. Goodrich's statement that staff is responsible is wrong because it is not up to the Board to assume the weight of the water.

Ms. Harrigan: The State Statute for the Coastal Management Act is clear that it indicates that the applicant needs to identify those resources.

Mme. Chair: Needs a consensus from the Board to ask Staff to write a motion with the points she has included.

The recommendation is to direct staff to prepare a motion for partial revocation of the zoning permit for a portion of the deck. That they require the pool foundation be removed and/or conform to FEMA or National Flood Insurance Program standards and that Mr. Voll be required to return to this board for a Special Permit for regrading with a CAM application that also outlines the restoration plan meeting the requirements of all agencies involved. This may be fine tuned by Staff and Legal.

Mrs. Patterson: Agrees with regard to scaling back the deck, removing the pool foundation and to come back to the Board for a Special Permit and plan for the regrading.

Mme Chair: Asked for a show of hands of those members who are in favor of Staff writing a motion as outlined: Seven members were in favor. Mr. Goodrich was not in favor. The majority of the Board has approved this request.

Legal will review the motion. Asked for it to be prepared and sent to the members for their review before the next meeting.

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F. PROPOSED REGULATION CHANGES

Mr. Ferrante: Mentioned Ms. Shaw gave him an article from the NY Times about someone in New Haven who was raising chickens in New Haven.

Mme. Chair: Had suggestions that the new regulation stipulate that the chickens are not for commercial use; that they be placed in the rear or side of the property; size of the enclosure and/or coop should be determined. (Asked Staff to investigate this) The coop or enclosure would be subject to obtaining a zoning permit if it will be larger than six feet in any direction, as required by the Regulations. Should consider that the larger the lot size, the greater the number of chickens that can be kept on the property. Chickens lay one egg per day, and if a property was allowed ten chickens, they would yield 70 eggs per week. That would be a lot for one family to consume. These are the types of issues that need to be contemplated. Mr. Ferrante had previously suggested that the Health Department get involved. Mr. Sulkis said that would not be possible.

G. LIAISON REPORTS

Mr. Goodrich: Board of Aldermen passed the Open Burning Ordinance. Milford Fire Department is looking into how much can be burned.

Mme. Chair: There are many codicils to this ordinance to make sure there are no nuisances and smoke that neighbors are inhaling.

H APPROVAL OF MINUTES – (4/21/09)

Mr. Goodrich: Motion to approve.

Mr. Liddy: Second.

All members voted in favor of accepting the minutes as recorded.

I. CHAIR'S REPORT

Attended a seminar on Parliamentary procedure and said based on the size of the board she feels they are conducting meetings very well. Gave written material which summarized parliamentary procedure to Mr. Liddy.

The issue of abstaining at a meeting was brought up in this seminar. When persons abstain they are giving over their vote to everyone else and saying they do not want to be a part of this. If someone was abstaining due to lack of information, they should state as much and be given the necessary information. Felt she had been validated in her views on this issue and the Board's adoption of its abstention policy.

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Will try to repeat a motion before a vote is taken to make sure there is clarity on the motion.

Regarding by-laws: Some time in the future there should be a review of the Green Book and determine if the Board wants to incorporate by-laws.

Mr. Ferrante: Stated he and other board members went to the Land Use Seminar given by the Regional Council when they came on board, which was very helpful to the new board members. Suggested the Planning and Zoning Board and the Zoning Board of Appeals attend at least the introductory land use seminar.

Mme. Chair: This will be particularly important after the next election, when new members may be voted on the Board.

J. STAFF REPORT – None.

Mr. Vetter: Made a motion to adjourn.

Mr. Liddy: Second.

All members voted in favor of adjourning the meeting.

The meeting adjourned at 9:30 p.m.

The next Planning and Zoning meeting will be held on May 19, 2009.

Phyllis Leggett, Board Clerk