

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the June 1, 2010 meeting of the Planning and Zoning Board at 7:31 p.m.

A. PLEDGE OF ALLEGIANCE

The Chair asked for a moment of silence at Ms. Rose's request, for Staff Sgt. Edward Rivera, of the 1st Battalion, 102nd Infantry out of New Haven who died after being wounded in Afghanistan while serving our country.

(Moment of Silence)

B. ROLL CALL

Members Present: Edward Mead, Mark Bender, KathyLynn Patterson, Robert Dickman, Kevin Liddy, Kim Rose, Janet Golden, Greg Vetter, Victor Ferrante, Susan Shaw, Chair.

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

C. NEW BUSINESS

1. **112 BEACH AVENUE (ZONE R-7.5)** - Request of John Wicko for approval of Coastal Area Management Site Plan Review modification for substantial improvement of a single family residence on Map 60, Block 743, Parcel 5, previously approved by Planning and Zoning on 3/16/10, of which Judith Schubert is the owner.

Ms. Harrigan: Explained that sometimes in reviewing the entirety the work that is proposed, it is expanded slightly from what was previously approved. That is the case in this instance and the house is now considered substantial improvement. By state statute it is required that this portion of the site be reviewed as well. The garage portion had been reviewed because the footprint was large enough to be considered comparable to a single family residence. With the main house there is a small addition where they are enclosing a portion of the porch and that was identified with the original CAM review. The exterior of the house will remain but they are going to remodel it with new windows and siding, but they will now be doing substantial improvement to the interior of the house. Because of that they have expanded and modified the site plan to incorporate some construction to get mitigation measures as part of the plan that the Board received. That includes identifying where the dumpster container will be located on site, as well as some additional perimeter fencing to ensure that there is any debris that ends up into the adjacent coastal resources. There is an

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PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
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existing hedge row on this property so that will actually filter a lot of any movable construction debris that might be on site. A lot of the other construction mitigation measures remain in place from what the original garage was reviewed.

Mme. Chair: Clarified the reason the Board is seeing this is because it is now over 50% new construction?

Ms. Harrigan: Yes.

Mr. Liddy: Asked why the Board was not approving the driveway.

Ms. Harrigan: Explained that the Board had granted a waiver and approved the driveway when the application was originally approved. John Gaucher re-reviewed this plan and felt confident that the measures in place would take care of the construction that is proposed for the house.

Mr. Vetter: Moved to approve Request of John Wicko for approval of Coastal Area Management Site Plan Review modification for substantial improvement of a single family residence on Map 60, Block 743, Parcel 5, previously approved by Planning and Zoning on 3/16/10, of which Judith Schubert is the owner.

Mrs. Golden: Second.

Mr. Bender: Asked if Mr. Gaucher's approval was in writing.

Ms. Harrigan: Spoke to him over the telephone. Will ask him to email his approval.

All members voted in favor of approval.

D. PUBLIC HEARING CLOSED 5/18/10; exp. 7/22/10

2. **957 WEST RIVER ROAD (ZONE R-A)** – Petition of Warren Field, Jr. for a 3-lot re-subdivision on Map 114, Block 907, Parcels 25D, 25C, 25B and 25AA, of which Warren and Mary Rose Field are the owners.

Mme. Chair: This is a shared driveway. Should there be a shared driveway agreement as a condition of approval?

Mr. Sulkis: The applicant is the property owner of where the driveway is. It can be made a condition of approval that he put a sharing agreement on the land records.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Ms. Rose: Motion to approve the Petition of Warren Field, Jr. for a 3-lot re-subdivision on Map 114, Block 907, Parcels 25D, 25C, 25B and 25AA, of which Warren and Mary Rose Field are the owners.

Mrs. Golden: Second.

There was a discussion as to Lots 3 and 4 who would be sharing the driveway. Lot 3 currently exists. Lot 4 will be a new rear lot. There will be the required 25-foot access to the road.

Mrs. Patterson: Asked about the fill of wetlands on Lot 3 for a driveway. Also if they were putting 10% of the appraised value to open space.

Mr. Sulkis: That is correct. Corrected the agenda that stated the location was West River Road, which should have read West River Street.

Clarified that the approval letter will reflect Ms. Rose's motion that the applicant will be compile an agreement that will be filed on the land records.

All members voted in favor of approval.

3. **PROPOSED ZONE CHANGE – LAFAYETTE STREET (ZONE R-7.5)**
Petition of Stephen Studer, Esq. for a zone change for three properties known as 4 Lafayette Street (Map 44, Block 405, Parcel 22), 9 Lafayette Street (Map 44, Block 410, Parcel 22) and 13 Lafayette Street (Map 44, Block 410, Parcel 21) be returned to their former MCDD zone status from their present R-7.5 zone status.

Mr. Ferrante: The application talks about restoring the buildings to their former MCDD status, but that was only for a brief period of time. The real status is exactly what it has been used for 30-40 years, which are 1-2 family homes, which is in keeping with the neighborhood. Not in favor of approving the zone change.

Mme. Chair: Noted that for a zone change approval by two thirds of the voting members is required.

Mr. Bender: Could not see a hardship. The applicant is making income at this time. Just to change it so that he has more options, not reason enough. Also, neighbors' concerns about the two lots together and what could happen with that in the future makes him not in favor.

Mrs. Patterson: Not in favor of changing the property. Believes it could have a trickle down effect and where it could stop.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Ms. Rose: Agrees with the other board members. The previous board changed the zone for a reason. Believes that was reiterated in the last public hearing. Would not support this application either.

Mrs. Golden: Agrees with the other members as well. They had many years to address the issue and now come before the board four years later does not make sense. Not in favor.

Mme. Chair: To change a previous board's decision would require a finding that the situation in that area has changed significantly so as to require a change. That does not seem to be the case. Carol Smith, Chairman of the Historic District spoke of the importance of tourism and visitors to the area and the negative impact such a change could have on the neighborhood. In agreement with those who had spoken. No one knows the future but the uses in the MCDD are known and include many uses that should not be associated with the R-7.5 zone.

Mr. Vetter: The MCDD offers too many options for a changed use that would affect the residential aspect of the street. Sympathizes with the owner's nonconforming piece of property that has been serving at this function for many years, but MCDD is too much.

Mr. Mead: The property at #13 is like a dog-leg and it ends up behind the lady that spoke. If this went back to commercial development that could be someone's parking lot for a business and it would be a disadvantage for her to have that there. It also encroaches on the Historic District.

Mme. Chair: It was also pointed out the MCDD has zero setbacks front and side yard. That has an additional impact to Mr. Mead's point.

Mrs. Patterson: If this had been a true hardship they would have been before the Board within the past four years.

Mr. Liddy: Weak on the attorney's part to say that the government has to take care of everyone and inform everyone. The Planning and Zoning Board did everything legally. If the property owner sees fit not to have property management to keep them informed, that is here decision. It is incumbent upon the property owner to be fully informed no matter where he lives. If he can't handle it perhaps he should sell the property.

Mr. Dickman: Agreed with Mr. Liddy and everyone who spoke in favor of not approving the application. It was the responsibility of the property owner to be at the hearing four years ago. Four years ago their perspective would have carried

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

more weight. In light of the unanimous showing of the residents at the hearing four years ago and the three aldermen who spoke, the unanimous decision of the board to change the zone to R-7.5, cannot see a compelling reason to make a change now.

Ms. Rose: Suggested the applicant could come back at another time if they wished to change it to a zone other than MCDD. In light of the discussions moved to deny the application for a zone change for three properties known as 4 Lafayette Street (Map 44, Block 405, Parcel 22), 9 Lafayette Street (Map 44, Block 410, Parcel 22) and 13 Lafayette Street (Map 44, Block 410, Parcel 21) be returned to their former MCDD zone status from their present R-7.5 zone status.

Mr. Vetter: Second.

All members voted in favor to deny the application for a zone change.

E. PUBLIC HEARING CLOSED 5/18/10; exp. 6/24/10

4. **145 HIGH STREET AND 0 RAILROAD AVENUE (ZONE MCDD)** Petition of DeLeo Brothers Property Group, LLC for Special Permit and Coastal Area Management Site Plan Review approval for building renovation and reconstruction, 6 residential units, as well as a 15,800 SF parking lot on Map 54, Bock 322, Parcels 1 and 2B, of which DeLeo Brothers Property Group, LLC is the owner.

Mme. Chair: The Board has had time to review the material the applicant had provided to them. This information included the landscape plan, the lighting plan and the dumpster enclosure. Asked for staff comments on the material received.

Mr. Sulkis: Changes they made and agreed to: Moving the dumpster away from the neighboring property to next to the building. They will not be utilizing a dumpster, but smaller garbage cans in an enclosed unit. They have agreed to put in the decorative aluminum, steel or wrought iron fencing along the railroad property line and wrapping around Mr. Agro's abutting property. They are providing the eight foot tall fence along the neighboring property line yards and have made changes to the lighting based on the public and Board comments.

Mr. Ferrante: Asked if as a result of the changes made by the applicant there are no issues left to be listed as conditions for approval.

Mr. Sulkis: The applicant was able to address the things that an applicant can address in the type of application that has come before the Board. Based on the testimony given by the applicant and the plans that were submitted and the discussion that ensued, everyone knows what is to be expected.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mr. Ferrante: That being the case, he complimented the applicant for working so closely with the neighbors, especially on the lighting issue. Made a motion to approve the Petition of DeLeo Brothers Property Group, LLC for Special Permit and Coastal Area Management Site Plan Review approval for building renovation and reconstruction, 6 residential units, as well as a 15,800 SF parking lot on Map 54, Block 322, Parcels 1 and 2B, of which DeLeo Brothers Property Group, LLC is the owner.

Mrs. Golden: Second.

Mr. Mead: Asked about the DOT working with the applicant to provide a stairway for commuters. According to the site map the only area that was left open was for the guide wires for poles. Were there any provisions left for the future in the event they get the easement from the DOT?

Mr. Sulkis: He has had conversations with the applicant's attorney and with the State DOT to install a staircase. This will be a very long process. The State is interested in allowing it but it will take time. At that time, should the State approve this, they may come back for a modification which might impact one or two parking spots at that side. There is nothing that can be done until that time.

Mme. Chair: Summarized that all outstanding issues have been addressed. The parking lot definition about allowing or disallowing overnight parking would not concern the Board. The cement sidewalk around the perimeter of Darina Place is the one inside the parking area to prevent cars from going forward, but that was addressed by the curb as being safe. Cameras, time of construction and sidewalks for Darina Place are outside the Board's jurisdiction.

All members voted in favor of approval.

F. OLD BUSINESS

PUBLIC HEARING CLOSED 5/4/10; exp. 7/6/10

5. **90 HEENAN DRIVE (ZONE CBDD)** Petition of 90 Heenan Drive, LLC for Site Plan Review approval to construct affordable housing units pursuant to CGS Section 8-30g on Map 91, Block 807, Parcel 2, of which 90 Heenan Drive, LLC is the owner.

Mme. Chair: Suggested starting the discussion based on three components of the plan. 1) Phase One, which is the lower part of the development, Heenan Drive; 2) The northern end which is off Research Drive; and 3) the Affordability Plan.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The aim of the discussion would be to get to the point where a motion could be drafted by the City Planner.

The Chair mentioned comments made previously by Mr. Sulkis concerning altering the curb cuts on Heenan Drive where the driveway came through.

Mr. Sulkis: The applicant handed out Conceptual Plan #2, which indicated Cottontail Lane turning into a driveway (indicated on the drawing), instead of individual curb cuts. If the Board likes this layout they can indicate their preference.

Mr. Dickman: It was his understanding that Mr. Carroll asked if the Board was going to reject the application, it should be rejected in its original form, unaltered. How bound is the Board by that request?

Mr. Sulkis: The Board is not bound at all by that request. The Board can approve the plan; approve parts of it; or deny it. The same with the alternative plan. The fact that they submitted an alternative plan would indicate they would consider alternatives.

Mme. Chair: Also discussed was the sheeting action off the retaining walls. The applicant offered to remove two houses as part of that because of concerns that the runoff or sheeting action as it hit the houses.

Mr. Sulkis: In Alternative Plan #2, there are a couple of retaining walls cut into the hillside, which are immediately adjacent to Pads 17 and 18 and Pads 25 and 26. During the public hearing he tried to get information about the sheeting action and runoff down the hillside. Not talking about runoff off the site, which their engineer kept referring to, saying it meets all the runoff requirements and the numbers are all good, which is true. Not talking about runoff off the site, talking about how the water comes down the hillside on the site and when it gets to the bottom of the retaining walls, where does it go. They did submit a proposed generic retaining wall that has a swale on the top where water would go down into the swale, but they have not demonstrated that the water would stay in the swale, and based on the very steep hillside that is there, concerned that the water would come down the hillside and hit those particular units. If they come back and they say they can engineer a wall and a drainage system that will prevent water in a 50-year storm from coming down and smacking into these units, then there is nothing to fear. But they have not done that with this. Those are the four pads that are of concern.

Mme. Chair: As far as demonstrating that, would it go to our City Engineer?

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mr. Sulkis: If this is approved by the Board, when the construction drawings are put together they will have to commit to the full blown engineering drawings that they would need for these walls. Obviously they did not want to go to the time and expense of actually doing the engineering now in case the Board turns down the application. But if this is approved they would have to produce and it would be reviewed by the City. If there were conditions saying that they need to demonstrate that the water would not affect those units, then they would be good to go.

Mr. Bender: Agrees with that concern. He did not see any documents that said runoff through the property would not be a problem. The only document he did see and which he tried to get clarification on was that all the adjoining properties run onto this property. The engineer kept repeating what the letter said. He did not see anything that told him that the retaining walls in that area are safe with such an incline behind it.

Mr. Mead: The people in Ryder Woods were concerned about the runoff from the hill coming onto their property.

Mr. Sulkis: Ryder Woods is farther away. He is less concerned with Ryder Woods, as they are farther away than the homes at the base of the hill. From his understanding of some of the testimony that was given, there are people who were concerned about the overall hillside being stable during construction. Also heard testimony that this would not be an issue.

Another issue is if the Board decides to go with Alternative #2, they will ask for a landscaping plan along the front of Heenan Drive. There would be a 20-foot deep area there that could be landscaped, which they could not show because this is conceptual. This could also be a condition of approval.

Mme. Chair: Regarding the stabilization plan, during the construction they would need to demonstrate how they are going to keep the soils and materials from going down and possibly affecting Ryder Woods as well.

Mr. Sulkis: They have the soil erosion and sediment control plan for the actual construction. Once you get into that hillside there is a lot of work that is going to take place between the upper and lower portion. There will be a lot of disturbance. Obviously they will have to make sure that any runoff of soil, erosion that occurs through storms, stays put.

Mr. Liddy: Ryder Woods inhabitants have not complained about runoff from the slope. If the Board does not allow the Research Drive portion to be built, will it still be necessary to put in a retaining wall?

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mr. Sulkis: Looking at the plan if it were divided either in the original plan or the conceptual plan, they still have to cut into the hillside to put those units in, so there will be retaining walls.

Ms. Rose: Asked how close are the units to each other?

Mr. Sulkis: In the lower portion they are ten feet apart, five feet on each property's side yard.

Mme. Chair: Move on to Phase II, the northern end off Research Drive.

Mrs. Patterson: Spoke about the many safety concerns she has about that area. Tractor-trailers coming through, a sidewalk that will abut two openings of driveway on both sides. It will be a safety issue with access into that road with people walking and riding bikes, regardless of age, coming out onto a busy road where there are at least three sites on which there are tractor-trailers right now.

Mr. Bender: The other side that does have a sidewalk is only four feet from the buildings. There will be traffic going through. Four feet from the building is not enough room.

Mme. Chair: Agreed. It is a street and it will change the setbacks for the existing buildings that will be made nonconforming. It changes the use, in part, of an industrial zone. The safety issue does not go away if the units are for 55 and older. The roadway itself should be presented as a site plan and the change should not be presented as part of this application. She would seek to deny the roadway because it is a private street through the ID. The houses in the upper end – there were issues about garbage pickup and snow shelves but that seems to have been dealt with.

Mr. Bender: Asked about parking and access for emergency vehicles on that street. He has not seen the fire or police department report.

Mr. Sulkis: Parking available on Heenan Drive, not on Goldenview Terrace. Goldenview Terrace would be able to support fire access and did not go to the Fire Department.

Mr. Mead: With all the businesses and development in the Research Drive area it would be difficult for emergency vehicles to locate Goldenview Terrace, even though they said the area would be well marked. Talked about having a bus stop if there are children living at the top near Research Drive.

Ms. Shaw: Noted the bus shelter that had been discussed was not included on the engineer's drawings for the 55 and older project.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Ms. Rose: Ten feet apart is too narrow. In case of fire more than one home would be lost, as was the case recently in Walnut Beach. After reviewing Mr. Ivers' and Mr. D'Amato's reports and does not see the affordability pricing.

Mr. Ferrante: Does not understand all the components the Board is discussing. Asked what the Board would be voting on. Confused about the applicant's different presentations.

Mme. Chair: The applicant is willing to work with the Board on certain elements of the plan. In the last of the memos, at least with the 55+ concept, they have offered to address the safety issues. She does not feel they do address the safety issues.

Mr. Liddy: Has a problem that the land will not be owned by the homeowners. Foresees that being a huge problem down the road.

Mr. Ferrante: Comforted by the fact the homeowners would not own the land given the physical shortcomings of the site. If something goes wrong they can go to the landlord. Would like to see a master lease, so that the owners of the homes have a mechanism to negotiate jointly with the owner of the land.

Mr. Dickman: Agreed with the other board members. Referenced the Police Department Traffic Report which expressed concern that two segments of the project were not connected by a common road. Would feel better about the project if there was a road connection and has grave concerns about it without the road.

Mme. Chair: Read from Mr. Miller's memo of April 1, 2010 regarding this matter.

Mr. Liddy: Could building a connecting roadway be a condition of approval for the upper project?

Mr. Sulkis: Yes and that would be his recommendation. The Board has demonstrated they have nothing against affordable housing, but some of the issues associated with the plan. If the Board wants to recommend approval of the plan as presented on Alternative #2 and as a condition of approval it does not approve the access through the industrial park and a condition is made that the upper portion has to be connected to the lower portion, there is plenty of information to support that between the police report, their own engineer and their own planner. They all talked about how it could be done. The Board would not be turning this down. They would be in favor of affordable housing, but they want it to be done correctly and safely and not impact the adjacent industrial park.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Ms. Rose: Can the Board control how the project will be built? Can the Board ensure that he does this in phases?

Mr. Sulkis: That is difficult to do. The houses will be prebuilt. As each site is sold a house will be brought in and dropped onto the pad. This will not be the same situation as Naugatuck Avenue where the houses were being built on site.

Mme. Chair: The Affordability Plan. Mr. Ivers presented a memo wherein he stated the concerns he had. Rolling Meadows has the potential to be a good and viable 8-30g housing project. However, the Fair Housing Marketing Plan failed to address how the set aside units are going to be sold. Read a portion of the statute that was referenced in Mr. Ivers' memo.

Since there is no great disparity between the price of the market rate and the set aside, it is not clear how these are going to be sold. This development addresses a big need if they can come forward with a marketing plan that demonstrates how the set asides can and will be sold. So far the application seems to be deficient.

Mr. Mead: Noticed that a Ryder Woods property is for sale at \$82,000. Affordable units projected cost was in the range of \$134,000 to \$147,000. Ryder Woods is not affordable housing. Thinks \$82,000 should be the starting point for the marketing and then affordable housing should be less than that to be attractive, unless they are newer and better.

Mme. Chair: The way they arrive at the selling price is based on income and there is a formula for affordability.

Mr. Sulkis has been provided with information to formulate a motion. What the applicant provided on the second drawings for Phase I: 1) The curb cuts were taken out on Heenan Drive; 2) the retaining walls, the engineering report for that and contingent on the stabilization during construction; 3) sheeting action; 4) a landscaping plan.

Mr. Bender: Asked about the ten foot distance between units.

Mr. Sulkis: Does not see that as a danger to health, safety and welfare based on testimony that was given. If they are unable to demonstrate that pads 17, 18, 25 and 26 are safe from the wall runoff, they might have some room to play with to space out the units. Proximity to the retaining walls seems to be a greater issue than the units being ten feet apart.

Mr. Bender: Based on the fire at Walnut Beach it would seem they are too close.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mr. Sulkis: Then that could be added as well.

Mrs. Patterson: Asked about sidewalks on Heenan Drive.

Mr. Sulkis: There are none. That is an industrial area more or less. It is a very wide street. Only people going down this end would be the residents who live down that end. If sidewalks were to be required on Heenan Drive they would be there in front of their property and would not be going anywhere else.

Mme. Chair: Phase II – Issues of safety; issue of denying the the roadway. Desirability of linking the northern portion to Heenan Drive.

Mr. Sulkis: If the Board is going to deny the road that they are proposing to put through the industrial park, they will have to be required to connect the upper portion to the lower portion.

Mr. Bender: Asked about denying without prejudice because of the access road.

Mr. Sulkis: Recommends the project not be denied, but approved with modifications.

Mr. Dickman: Does the Board have to make the recommendation that the two private roads be joined or can the applicant intuit that in any way they will and then come back to the Board?

Mr. Sulkis: If the Board is denying the connection between the upper part and going through the industrial park, then they would have to connect with the lower portion. They have two options: They can connect through the industrial park or at greater expense connect Cottontail Lane. If they Board denies the industrial park, it should be recommending based on the police report and the testimony presented that they connect Goldenvue to Cottontail. If it means a totally different project, then at that point they would have to come back to present the new project, if that connection somehow dramatically changes the layout as it is today. It may or may not.

Mr. Vetter: There was a problem with Ryder Woods with sheds. Why is that not a problem in this project?

Mr. Sulkis: Ryder Woods had very little left in terms of impervious surface when it was created based on the amount of wetlands that were there. So, the original application did not take the sheds into account. That is why it became a big deal. Eventually a set of criteria was established and permits are issued under certain circumstances for sheds. Because of this experience it was

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

recommended early on for this application, that they show sheds for storage because there are no garages.

Mme. Chair: Affordability Plan. Require the applicant to produce an affordability plan that shows an affirmative fair housing marketing plan that demonstrates how they will attract purchasers of the price restricted units in the affordable housing development.

Mr. Sulkis: The affordability plan is fine and meets the requirements. The one spot that does not according to the City's expert is the Fair Marketing Plan, which has to follow the Fair Housing Action Plan Guidelines as provided by the State of Connecticut. Mr. Ivers has said this is an easy thing to do, but for some reason the applicant did not do it. That can be made a requirement of approval.

Mr. Bender: Asked when the Board would see the motion?

Mr. Sulkis: Motions like this are usually presented at the next meeting.

Mme. Chair: There is time for further discussion. Expiration of this application is July 6th. Thanked Mr. Sulkis.

G. PROPOSED REGULATION CHANGES – None.

H. LIAISON REPORTS

Mr. Mead: Inland Wetlands. Subway on Bic Drive is proposing a new parking lot for their buildings on 300-336 Bic Drive and 0 Naugatuck Avenue. They want to put in 154 spaces. They will be using the new concept of pervious concrete paving instead of asphalt. Codespoti made the presentation. Instead of water running off in sheets into storm drains it drains through the parking lot. There would be a 12" base of stone and then 6" parking lot.

I. APPROVAL OF MINUTES – (5/18/10)

Mr. Vetter: Made a motion to approve the minutes of May 18, 2010.

Mr. Ferrante: Second.

All members voted to approve the minutes as presented.

**MINUTES FOR THE REGULAR MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, JUNE 1, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

J. CHAIR'S REPORT – None.

K. STAFF REPORT – None.

Mr. Liddy: Asked about Sonic coming to Milford.

Mr. Sulkis: No one has spoken to him about it.

Mr. Vetter: Motion to adjourn.

Mrs. Golden: Second.

The meeting adjourned at 8:50 p.m. The next meeting will be a public hearing on June 15, 2010.

Phyllis Leggett, Board Clerk