

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

*The Chair called to order the Public Hearing of June 21, 2011 at 7:33 pm*

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Victor Ferrante, Edward Mead, Mark Bender, Robert Dickman, Gregory Vetter, Vice-Chair; Janet Golden, KathyLynn Patterson, George Gasper, Kevin Liddy, Susan Shaw, Chair. (Mr. Dickman left the meeting at 8:00 p.m; Mr. Bender left the meeting at 9:41 p.m.; Ms. Golden left the meeting at 10:55 p.m.)

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

The Chair announced there are a number of items on the public hearing agenda. She noted the protocol for the public's opportunity to speak at the appropriate time during the hearing.

**C. PUBLIC HEARING – Closes By 7/12/ 2011; Expires 9/15/2011**

1. **42 WESTMOOR ROAD – (ZONE R-12.5)** Petition of Christopher Field for a Special Permit and Coastal Site Plan Review to construct a single family residence with re-grading in a flood zone on Map 30, Block 644, Parcel 7, of which Field and Son Builders, LLC is the owner.

**Joseph Codespoti, Codespoti & Associates, 504 Boston Post Road, Orange, CT,** Apologized to the audience that the plans face the Board and the audience could view the plans after the presentation. These are the same plans that were submitted to the Board, however, the displayed plans have some color on them.

The applicant, Field & Son Builders proposes a very simple application. The property was described via the displayed plans. Right now Westmoor Road is paved. Westmoor Road extends quite a ways past that, but the pavement ends at a certain point. It is proposed to extend the pavement 157 feet. It will still be a dead end and the sanitary line and public water supply will be extended as well.

Tonight's public hearing is only to discuss one lot, the parcel at 42 Westmoor Road. A single family residence is proposed, approximately 60 x 100 (6,000 SF). The pavement will be extended and a Special Permit to do work in an area to provide a driveway to reach the pavement that will be extended.

The various flood lines were pointed out on the displayed plans. Right now it is a wooded area. There is no construction on the lot. None of the activity will be in a wetland area. The wetlands were flagged by Otto Theall, the scientist. He was asked to explain how the wetlands were established and to describe what they are.

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PLANNING & ZONING BOARD HELD  
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**Otto Theall, Professional Soil and Wetland Scientist, Soil and Wetland Science, LLC.** Been delineating wetlands for 22 years. Examined the property in September, October and November of 2010. Did an investigation of that lot and some other lots as well on the same street. He took a total of 75 soil samples to determine where the wetland boundary is. The wetland boundary was determined in the field doing soil samples. A copy of his report was submitted for the record.

He noted that in the process of clearing the area for the road and entrance into the lot there was some debris that was pushed into the wetland a bit near Flag 8. Around Flag 8 there is a debris pile that is approximately 10 x 15 feet in size and 3-4 feet tall. Mostly sticks with a bit of soil at the bottom. That will have to be removed. Also planning to submit to the Wetland Agency a plan to try to remove the knot weed from the area. This is a noxious, very invasive weed that is very hard to get rid of and is undesirable.

**Mr. Codespoti:** The applicant is here with two requests: One is for a Special Permit to grade within the 100 year flood plain and the second is for a CAM Report review.

He referred to Sheet SP-1 where there was an area (in dark blue) is the area that is in the flood plain on the lot. The remainder of the lot is outside the flood plain and none of the house or any of the structure will be built in the flood plain. The elevation for the first floor is Elevation 12, two feet above the flood plain and there is no basement. The flood line will actually be moved back a bit to make the driveway come down to meet the pavement that will be put in. That driveway will extend a bit and instead of having more in the flood plain or any filling, about a half foot of earth will be removed so the driveway can reach the road which is Elevation 8 which will be raised to 12 and in this flood plain there will be no filling at all and it will not cause any problems as far as flood storage waters. In fact it will be made a little larger. The house will be built outside the flood plain and the first floor will be approximately two feet above it. The Special Permit involves re-grading without filling.

Mr. Codespoti explained the two parts of the Coastal Area Management Act which is designed to protect the Long Island Sound and the coastal resources. It protects coastal resource and use. He reviewed the CAM report and noted all the aspects in which the subject property complies with the Coastal Area Management Act.

He referred to an email was received from John Gaucher, Environmental Analyst of the DEP on April 27, 2011, who stated he had no comments on this application.

He referred to a letter from the State DEP Natural Data Base addressed to MaryRose Palumbo, in which it was stated they do not anticipate negative impact to State listed species of flora and fauna resulting from proposed activity on the site.

The Inland-Wetlands Agency approved the application with some conditions. The State DEP approved Lot 7 for sanitary sewer extension.

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The Milford Fire Department approved the plan as meeting the Fire Department access. A sprinkler system will be required.

The City Engineer and Public Works Director also approved the application after comments that were suggested were made by the applicant.

This project will provide some economic development and does not negatively impact the environment.

**Mrs. Harrigan:** Noted that a few of the letters that Mr. Codespoti mentioned were received at the Inland Wetlands Office and were part of its review. Copies were sent to the Planning and Zoning office and placed in the file.

**Mr. Ferrante:** Who is undertaking the extension of the road?

**Mr. Codespoti:** The applicant will extend the sewer and put in the sanitary sewer and water

**Mr. Ferrante:** Asked if this was being done in conjunction with a larger plan.

**Mr. Codespoti:** The applicant would like to but does not own all the other lots.

**Mrs. Harrigan:** Clarified that Lot 237 and 238 are owned by the applicant. The City of Milford parcel (Lot 239) is the one that has been approved for auction.

**Mr. Liddy:** Asked about fire emergency access to the property.

**Mr. Codespoti:** There will be a sprinkler system. The fire marshal approved the application.

**Mrs. Patterson:** Where will the driveway water runoff go to?

**Mr. Codespoti:** Showed via the diagram how the water would go through a 60 foot pipe that runs directly into Long Island Sound. Infiltrators can also capture and disperse some of the water runoff.

**Mr. Vetter:** Asked how many garage doors are proposed and is the regrading to accommodate the two garage doors?

**Christopher Field, 17 Beacon Hill Road, developer.** Described the raised ranch layout he proposes to build with a two car garage.

**Mrs. Harrigan:** Noted the application is not based on the site plan considerations. The floor plan can be revised because it does not affect the regulations.

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PLANNING & ZONING BOARD HELD  
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AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Field:** Whether the garage is one car or two, it will not affect the grade or width of the driveway. The house drawing is a standard one used in many of his plans.

**Mr. Codespoti:** The driveway is accurate. It shows the 12-foot access to the public street and widens out to two car garage width. If the buyer wants only one car, it would just mean less pavement.

**Mme.Chair:** Asked if there was anyone to speak in favor of the application.

**Ryan James, 63 Westmoor Road.** Only lived in the neighborhood for a couple of years. No expert in environmental care. After hearing that there will not be any problems with the environment or impact on the environment. He agrees with expanding the neighborhood. It is beautiful and he would be in favor of adding 5-6 more homes.

**Jennifer Chase James, 63 Westmoor Road.** Her parents are the previous owners of 63 Westmoor Road. They built it in 1978. They paid for the road to be extended and for the utilities to be brought down that road. Lived there almost 40 years. Flood insurance was not required and in all the years she has lived at that house there has not been a flood or water. They had a swimming pool in 1982 and had a perk test done on the soil. Everything was fine. The area for proposed development has been overgrown for years and has been used as a dumping ground. Her property is directly adjacent to this area.

**Stephen Albright and Marie Jansen, 50 South Broad Street.** They plan to purchase 42 Westmoor Road if it is approved. They moved to Connecticut in 2004 seeking better opportunities and a better life for themselves. They moved through other towns including Danbury and Stamford and worked and lived in Norwalk. They like Milford the best for many reasons and it is a good place to raise a family. They would like to move into the new house in the fall. Considers himself an amateur environmentalist. Would not want to own a home that would adversely affect the environment. The site is a lot of underbrush and dead trees. It is neither a wetlands or a forest. As far as the impact to the neighborhood, this would extend a dead end street and create a cul-de-sac and adding 100 yards to the street. Does not see a negative impact in doing this. Would like this approved so they can buy their first home.

**Mr. Ferrante:** Asked if the Board requires that all the paving be pervious, would the Albrights have a problem with this?

**[Response inaudible]**

**Mr. Codespoti:** Had a letter in favor of the application from Victoria K. Wild, 31 Coolidge Road, which he read as follows: "To Whom It May Concern: I recently purchased the property at 31 Coolidge Road, which is in the neighborhood of the Westmoor Road in the Bay Point Beach area. I noticed that the dead end street that is proposed to have houses built on it has an abundance of garbage disposal which is

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unsightly to say the least. I feel this proposal to build houses at the end of this street will eliminate the dumping grounds, make way for well built homes that only add value to the neighborhood. In addition to added value, constructing the proposed house will affix a much needed character to the area. I have no objection to the above property having houses being built on it and would very much appreciate the construction being endorsed. Thank you for your consideration. Victoria K. Wild.”

**Mme. Chair:** Anyone else to speak in favor of the application? [No response]  
Anyone to speak in opposition to the application, please step forward. Give name and address. Please keep comments to three minutes or under.

**Genilla Corkery, 9 Northmoor Road.** Went to Engineering Department because her concern is with flooding. Showed a map from engineering that shows a manhole in front of her house. It has not been taken care of and when it rains it overflows. Another map from Engineering cuts through Atwater Street and connects to Westmoor Road. Shows another page that shows an open above ground tunnel. It is a pipe above ground that takes in water. Her concern is that the developer will be connecting his home to this type of system that is in place now. This system needs to be repaired. This new development may cause it to backflow. The whole neighborhood has issues with flooding and they are all connected to this system. Where is the proof to show that it will not backwash and flood the entire neighborhood. That is her big concern.

**Althea Walsh, 9 Northmoor Road.** Agrees with everything her daughter (Genilla Corkery) said. Adds that in the back where the pipe is running the two houses on Northmoor Road have been raised about 30 feet. Three houses should not have been built because they were built on swamp. Her house is low and she gets water every time it backs up. If the builder connects to this pipe it will increase the water coming into her cellar.

**Charlene Adams, 188 Point Beach Drive.** Her house is on the paper road of Westmoor Road and Point Beach Drive. Owns additional lots on the street. Not opposed to building, but there is active wetlands; a drainage system that has been neglected and in gross disrepair. He is building one house and has plans to build additional houses to an area that is already stressed. Would like to see an impact study as to what that is going to do to all the people in the neighborhood that have basements. Concerned about the extension of the sanitary sewer and water and that there will be a 60-inch diameter storm drain running the whole length of Westmoor Road to Long Island Sound. That will go right by her house. She wants to know that line is sound.

She noted there are 1400 homes for sale in Milford. Does not think the City is hard pressed for how many more houses he wants to build. Thinks they are going too fast and there has not been an adequate study of the area. There are various wildlife and endangered species in the wetlands. What will happen to these?

**Mr. Liddy:** Asked which endangered species she is referring to.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Ms. Adams:** Amongst others, the box turtle.

**Shannon Cleary, 95 Atwater Street.** She does not trust Mr. Field after what he did when he took down the trees and went within inches of the wetlands on June 9<sup>th</sup> without a permit. He destroyed City property with no real plan. The property was not staked and there was no silt fencing up to help keep the wetlands safe. Believes the wildlife and their new babies have been affected by this action. Questions whether Mr. Field's wetland permit should be revoked. He violated many of the conditions of the permit. She brought this to the attention of MaryRose Palumbo, who said she would look into it. However, as long as the violations are corrected in a timely manner, the permit will not be revoked. Questioned where the water will go with the creation of another building.

Biodegradable grass clippings may have been put in the area that has been called a dumping ground. No garbage has ever been put in the woods. Mr. Field destroyed the guard rail at the end of the road and just left it there and it is still there where the children play.

Ms. Cleary handed in two letters from neighbors opposed to the project. She also submitted photos of the area.

**Robert Cleary, 95 Atwater Street.** Should not give permission to build a house. The site plan submitted by the builder includes a partial portion of the City owned property to be auctioned off to the highest bidder. He does not think a permit should be granted for a site plan on property he does not own and may not own. He brought a bulldozer into the woods and could have damaged the City-owned woods, thereby decreasing its value. No need for additional houses.

**Tyler Lewis, 11 Earle Street.** Neither for nor against but concerned. Worked for the City for over 30 years. Concern is the City selling or abandoning roads and property when it takes and spends and bonds for millions of dollars for open space so that it cannot be developed.

**Theodore Pappas, 81 Atwater Street.** Owns 81 and 83 Atwater, which backs up to the property in question. Concerned about density in the area. Moved to this area because of its lushness and forestry and has seen the wildlife that lives in the woods. Would hate to lose the beauty of the area to more building. Directly impacts his property. He has drainage issues. Has storm drains in the middle of his property. There is a river that was filled in that runs under his property that keeps sinking in and drains out to the Sound, causing damage to his pavement.

**Kevin Lawless, 68 Atwater Street.** Has lived in Milford his whole life. Moved to the neighborhood in 1999 and loves it. You can't take away all the vacant property to build especially in the flood land. His flood insurance was cancelled four times because he is too close to the water.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
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AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Raymond Black, 31 Earl Street.** Biggest concern is flooding. His driveway goes down. His property is on the end of the marsh. When there are bad storms the drains don't pump water out, they take water in and water comes back. Water comes down his driveway taking the water in. Without his driveway the water would go to the other properties on the street.

**Ann Berman, 77 Powell St.** Does not live in that area and does not live in a flood plain. When you take down one tree it affects the hydrology. A neighbor took down one tree and that action caused flooding. Milford is overbuilt. There is no need for additional housing in Milford. There are foreclosures in the City. This is an example for the Plan of Conservation and Development. Need to look to the future and try to preserve as much land as possible, because the City has become overdeveloped. In Europe if you own land you cannot build on it unless there is a need to do so. There are apartments and condos in abundance, some of which are hardly occupied.

**Amy Bennett, 64 Atwater Street.** Lived there since 1995. This is just the beginning of what they want to develop. There is a house on the street that has been for sale over a year.

**Steve Cioppa, 106 Atwater Street.** Lives on the other side of Atwater. Has a storm drain in his backyard and has not had a problem. Took a drive around a five block radius. Counted 17 houses for sale, which includes new construction. Some houses on Platt Street have not been fully built for a few years.

**Theresa Burns, 87 Atwater Street.** Lived there 18 years. Agrees with all her neighbors and supports their statements. 118 homes in foreclosure, and so many for sale, school enrollment is declining. Submitted a petition and photos of the area that was bulldozed.

**Mme. Chair:** The petition will be entered into the record. There are 102 signatures.

**John Newman, 98 Atwater Street.** Supports his neighbors in preserving the wetlands.

**Harry Lacharite, 94 Atwater Street.** Lived there 32 years. Raised his family there. Asked to preserve the wildlife in the area.

**Linda Parnoff, 342 Edgefield Avenue.** So many people against this for so many reasons. Disagreed that this project will not affect the environment. There is a ripple effect for everything that man does. Her parents built this home in 1958. Things have changed significantly since so much development has taken place over the years. It has created significant change in the water runoff.

**Jennifer Blodgett, John Blodgett, 85 Atwater Street; Gabrielle Cleary, , 95 Atwater Street.** Agree with everything their neighbors have said. They are against destroying the wetlands.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mme. Chair:** Asked the applicant to respond to the comments that were made, after which time the public would have the opportunity to respond , but just to the comments that were made.

**Rebuttal:**

**Mr. Codespoti:** Sees the issues as drainage and open space. It is obvious that people have had drainage problems in the area. One does not have to live next to wetlands to have drainage problems. He explained the measures that will be taken by the applicant to improve the drainage on the street. Something that should have been done, but was not done in the past. No one will be affected by what is contracted on this 6000 SF lot. However, if there were existing problems, that situation will not improve.

Issue of open space. This is not open space. Talking about 6000 SF which will not disturb the habitat at all. This is a 6000 SF building lot. It is not open space. It is woods because it has not been developed. None of the wetlands will be disturbed, nor the habitat of the animals that are used in this wetland area. This will be responsible development and ownership rights. Hopes this case will be considered on its merits.

**Mme. Chair:** Advised the public that White Oaks Terrace has been taken off the agenda for tonight.

Invited the public to respond to Mr. Codespoti's comments.

**Doug Griffith, 67 Atwater Street.** Responsibility has not been handled at all on this project. Believes this development would affect the wildlife.

**Steve Cioppo, 106 Atwater Street.** 6000 SF and not affecting wetlands. That is at this time. No one has spent this amount of time and money to investigate the construction of one home. Believes this is part of a bigger plan to continue to develop the area. If not, they are spending a lot of money to develop a 6000 SF lot.

**Charlene Adams, 188 Point Beach Drive.** Looking at Mr. Theall's drawing and it looks like it is very near the wetlands. Mr. Codespoti said that emergency vehicles would not be able to go down the whole length of this road. In a feasibility study she had done on

her two lots she was required to have an additional 20 feet beyond the very back corner border of the last lot for emergency vehicles to turn around. Confused by the inconsistency and stated she would not buy a house that would not be fully serviced by emergency vehicles.

**Tyler Lewis, 11 Earle Street.** There are surcharges when the tide is high on the 60 inch pipe that runs from LI Sound. It was a grassy area before the line was put in. Once the line was put in all that disappeared.



**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Kevin Lawless, 68 Atwater Street,** Clarified his previous statement about not needing any more housing, it was in direct reference to him [Mr. Codespoti] saying “much needed housing in Milford”. Everyone knows this is a stepping stone to extend that street into this wooded area.

**Genilla Corkery, 9 Northmoor Road.** Concern is drainage. Photos show it is open. Since it is flooding and drainage is not working, is he going to assure that it will work once his house goes in. His house will be connected to the system that is not working.

**Rebuttal:**

**Mr. Codespoti:** No response other than to say what was not said previously: It is the property owner’s right to use that property.

**Mr. Liddy:** Doesn’t know why it was not brought up before: This is in a 12.5 zone. The property is only 6000 SF, less than half the required property required for this particular zone. The lot width required is 80 feet. This is only 60 feet. How did this happen.

**Mr. Codespoti:** Preexisting nonconforming lot certified by the ZBA as a building lot. He noted why it was certified as such and stated it was not uncommon.

**Mr. Ferrante:** Asked about the soil testing and where it was done.

**Mr. Theall:** Explained how and where the soil testing was done.

**Mr. Liddy:** Whose responsibility is it to keep the drainpipe clear?

**Mrs. Harrigan:** Most likely it depends on where it is located. If it is in the public right-of-way then it is the City’s responsibility.

After viewing some photos she stated it looks like part of it was on City property and part private property, but in those cases there are easements to allow them to do whatever maintenance is required. This falls under the jurisdiction of Public Works.

**Mr. Vetter:** Asked about the timing of the wetlands being flagged.

**Mr. Theall:** Not aware of any other soil scientists that have been on the property and flagged the wetlands. Oftentimes wetland maps that are usually on file with town inland wetlands agencies are typically based on old aerial photos and someone interpreted the photo in the office and drew the line as to where the wetland was. Those types of investigations are very inaccurate.

**Mr. Vetter:** Asked what methods Mr. Theall used for his data.

**Mr. Theall:** Stated how he got his information in order to do an accurate wetlands investigation.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Ferrante:** Asked about the 60" pipe that has been in place for many years; the roadway and why was there no turnaround at the end of the property.

**Mr. Codespoti:** Responded Public Works does not want a turn around. There is no need for it as traffic will be almost nil. The road would be permitted with the pipe because that is how roads are built today.

**Mr. Ferrante:** Asked why the Board could not deal with the potential development that appears to be part of the bigger plan by the applicant of this street.

**Mr. Codespoti:** That cannot be done because the applicant does not own those properties. It is not a secret that the developer would like to develop more along that road, but he does not own all the other properties. It is his risk.

**Mrs. Patterson:** Asked if there was only one property owned by the City that would be involved, as Mr. Field owns two other properties.

**Christopher Field:** City property next to 42 Westmoor. It is going up for public auction. He may or may not be the purchaser. He owns two other lots that are certified building lots.

**Mr. Liddy:** Asked if the City owned 239 and 240 as shown on SP-1.

**Mrs. Harrigan:** Yes and it is one parcel.

**Mme. Chair:** Closed the public hearing. It will be discussed by the Board at its next meeting.

**D. PUBLIC HEARING – Closes By 7/26/ 2011; Expires 9/30/2011**

2. **25-80 WHITE OAK TERRACE - (ZONE R-12.5)** Petition of James Walsh, Esq. for Site Plan Review approval under CGS 8-30g to construct 24 single family residences on Map 75, Block 921, Parcel 11, of which White Oak Terrace, LLC is the owner.

**Mme. Chair:** The applicant has withdrawn his application for tonight's hearing.

**[Recess from 9:40 to 10:52]**

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**2. 1201 BOSTON POST ROAD – CONNECTICUT POST MALL (ZONE SCD)**

Petition of John W. Knuff, Esq. for a text change in the Zoning Regulations to allow health clubs in the Shopping Center Design District (SCD zone); Amendment to a Special Permit and Site Plan Review, to construct a 41,000 sf health club, (LA Fitness Center) located on Maps 78, 79, 89; Blocks 811, 812; Parcels 40A/A; 40C, 13A, of which The Connecticut Post Limited Partnership is the owner.

**John Knuff, Esq. Hurwitz, Sagarin & Knuff, 147 North Broad Street** on behalf of Westfield. George Gianquinto, VP of Development for Westfield. Presenting three applications: 1) To amend the zoning regulations to add a new section 3.9.2.17 to make health clubs a permitted use in the Shopping Center Design District, subject to Special Permit approval; 2) To amend the mall's existing Special Permit to add LA Fitness within existing mall space, and 3) A site plan application.

The requirements for these applications prior to the hearing were met and the City Departments reviews were obtained with no negative comments.

Westfield is very excited about adding LA Fitness as a tenant to the mall for two reasons: First, it represents Westfield's efforts at many of their malls to add health clubs and other tenants that will have patrons who frequent the Center on a more regular basis. An LA Fitness is currently under construction at the Westfield Trumbull Mall. The LA Fitness patrons will be able to utilize all aspects of the mall in one trip. Secondly, LA Fitness is a first rate health club. They are characterized by very attractive exteriors; bright modern and clean interiors and they often certain facilities that other clubs do not, i.e. a swimming pool; basketball and volleyball courts. They will keep their facility in Orange.

Mr. Knuff distributed a tabbed handout to the Board. He discussed the proposed zoning text regulation change, adding Section 3.9.2.17. Health centers or clubs are a permitted use in the Shopping Center Design District provided that the maximum gross building area devoted to such health center use shall not exceed 41,000 square feet. The Special Exception provision has been taken and moved it from .17 to .18.

This is very similar to other zones that permit health clubs, but some of the outdated language has been deleted. The maximum of 41,000 SF ensures that any single use, such as LA Fitness or any combination of uses in the future of health club uses throughout the mall will not exceed 41,000 SF. The addition of health clubs in the SCDD as a permitted use will be consistent with other commercial zones that permit health clubs, i.e. CDD-1, CDD-2, CDD-4 and the MCDD. Also, the Board has permitted health clubs in the Industrial Zones by Special Exceptions. The proposed amendment is also consistent with the Plan of Conservation and Development which provides that the future land use policy for Route One between I-95 and the Orange town line is to strengthen this area as a regional draw. The addition of LA fitness will certainly do that for the mall and for this area.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Board had received copies of the floor plan and three other sheets that depict both the floor plan and the elevation. The location of LA Fitness was described as being between Sears and Macy's. If one is on the second level of the deck, between Macy's and Sears and you are looking at what is a nondescript area of the mall, that is where LA Fitness will be. There are no first floor tenants below that space. That portion will have to be excavated for the swimming pool area. There is an access off the bridge or fly-over from the second level of the deck into the mall. There will be an access from that walkway and an exterior entrance and there will also be an entrance directly into the facility from inside the mall as well.

Of importance is to note that the mall will not be expanded by one square foot. While the square footage in certain portions may be lowered, the total square footage of the mall will remain exactly as it is now. There will be some external changes to the building. Specifically, the roof will be raised where the basketball court will be located. LA Fitness will be treating the outside of the building. At the northern end of their leased space they will add an attractive new façade feature with a cornice element that will wrap around that corner. There will be repainting in those areas as well.

On the drawings and floor plans a reception area is noted. That is where patrons will enter either from the mall or the walkway/fly-over from the second level of the parking deck. The interior of the placement of equipment and facilities was described. There will be no classes for basketball and volleyball. All classes will be held in the aerobics center.

Parking: Under Section 5.1.4.2.2, regional shopping malls are required to be parked at a ratio of 4 spaces per 1000 SF. That is a standard ratio. Most retail uses in Milford and throughout the State require that ration. But in the context of this mall, that ratio has three important results: First, the mall is required to park for the entire mall; not only for the anchor stores and small stores, but for the common areas, entryways, the walkways between stores; internal hallways, bathrooms, storage areas, escalators, elevators, mechanical rooms, back of house, the kids' play area. Even the car repair base at Sears all get parked at the 4 per 1000 standard. In all, there is approximately 240,000 SF of non-tenanted space in the mall. It is not leased and cannot be leased as it is common area space, which is the equivalent of 988 spaces.

Second, the mall is parked as if each tenant is located on his own parcel and then no visitor ever visits more than one tenant per trip. Of course, most visitors do visit multiple tenants. That is the reason malls exist. Despite the fact that nearly everyone visits multiple tenants, the parking is as if each visit was a discrete trip. Because of this parking standard, the City has never differentiated between internal uses to the mall; whether it is a bank, retail, food court, movie theatre or bowling alley, it has always been parked at 4 per 1000. The because of the variety of tenants and most trips are multi-tenant trips and different uses, such as the theatre, experience peak times at different times of the day, week and year, there is always a surplus of parking, even during peak holiday times.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

While it is understood that the parking ratio for freestanding health clubs has been increased, the Board's consistent, historic treatment of parking the entirety of the mall at 4 per 1000 SF ratio should carry over to the proposed health club use. Because its peak parking demand will dovetail perfectly with the peak demands of the mall.

Comparison of the mall peak times and LA Fitness peak times:

Mall peak times – Monday to Friday, between 4:00 pm and 8:00 pm with the peak at 6:00 pm. The peak day of the week is Saturday with a peak time occurring between 7:00 pm and 8:00 pm, and the peak month is in December.

Tab 5 contained a bar graph that depicts when members go to LA Fitness by the day of the week. This is based on LA Fitness' experience in Connecticut, taking an average of all their Connecticut facilities and determining usage by club. 40% of all visits in a given week occur on Monday and Tuesday; 70% of all visits in a given week occur Monday through Thursday. Just as the mall visits increase toward the end of the week, the visits to LA Fitness will decrease. Less than 10% of all visits occur on Saturday and the same on Sunday. Fifty percent of those people who visit on a Saturday or Sunday come in before 11:00 a.m. LA Fitness class schedules show that no classes are held after 11:00 am or 12:00 pm. In terms of peak time per year, the peak time for LA Fitness is January through March. The lowest demand month is December.

Since the new parking regulation for health clubs has been enacted, there have not been any applications for new health clubs in the City and the mall would be an ideal location for a health club, given the location and amount of available parking.

LA Fitness wants to come to the mall. They have found that gym members want convenience and close parking to their facility.

The Board has the discretion under Section 3.9.3.5 to determine that the existing number of spaces at the mall, which is 5,388, is sufficient for the existing and proposed uses within the mall, including a health club use. Westfield and LA Fitness are very confident that the existing number of spaces is more than sufficient for the addition of a health club. Also confident that the addition of LA Fitness will be another important step in the continuing revitalization of the mall.

**Mr. Sulkis:** Mr. Knuff did a very good job. Nothing to add.

**Mr. Liddy:** Asked if there would be soundproofing in the basketball court area so that the other tenants would not be affected by noise made by ball playing.

**George Gianquinto, VP Development, Westfield.** There are a number of steps being taken in the free weights, aerobics and basketball court areas to deaden sound from below and to adjacent tenants. That is part of the agreement and part of the construction plans with LA Fitness.

**Mrs. Patterson:** How many members are anticipated to join the LA Fitness in the mall?

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Gianquinto:** Typically 3,000 members is the average.

**Mr. Vetter:** What is the average number of expected visits per day.

**Mr. Gianquinto:** Guesses 800 visits daily.

**Mr. Vetter:** There are 5388 total spaces in the mall. Is the mall currently compliant and with this use does that change the total number of spaces since the total square footage is not changing.

**Mr. Sulkis:** The mall is not compliant. The mall has a parking shortage of 394 spaces? [to Mr. Knuff], putting aside your logic about the common spaces...

**Mr. Knuff:** The mall has a waiver for 347 spaces and complies with the requirement as waived by this commission, which, he thinks is an acknowledgment of the fact that it is over parked.

**Mr. Sulkis:** To answer the second part of Mr. Knuff's question, based on the regulations if this were a freestanding unit, they would be required to provide 820 spaces for the 41,000 SF.

**Mr. Vetter:** Is this space currently being used?

**Mr. Knuff:** It is built but it is vacant.

**Mr. Vetter:** The whole 41,000 SF is vacant?

**Mr. Knuff:** Yes.

**Mr. Vetter:** The 394 parking variance included this 41,000 SF?

**Mr. Sulkis:** It is included in the 5,388 spaces that they currently have. If the question was are they included in the 41,000, it was for the mall as it is up to now based on the uses that are approved for this zone up to now.

**Mme. Chair:** Just to clarify: It's 820 by the calculation which includes the 320 that was waived?

**Mr. Sulkis:** No. The 820 would be if this was a free standing health club. Again, if the Board changes the regulations to allow this use in this zone, then under the parking requirements for shopping centers, it would be counted as [Mr. Knuff said], one space for every 250 SF.

**Mr. Knuff:** In the Shopping Center Design District regulations there is a provision in that zone that will be found nowhere else in the Regulations, which gives the Board the

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

discretion to require whatever number of spaces it deems to be sufficient. Believes they have demonstrated that the Mall complies with that. He understands the Commission has considerably upped the requirement for health club facilities in other zones. But, historically, the mall has always been treated differently because it is a different animal from any other retail use or any other similar type of use in the City, because they are parking for the common areas and people visit the mall. They are not all discrete trips. No one goes to the food court specifically to have dinner. You go to the food court for dinner, then you go see a movie and maybe do a little bit of shopping. But the parking, is calculated, including the common area space, as if everyone visiting there is making discrete trips. That is why even during December, the Saturday before Christmas, you will find huge portions of the parking lot that are being absolutely unused. Will people circle to get a closer spot? Yes, they will. But you cannot have every spot 50 feet from a front door. There are always, regardless of the time of day, huge portions of the parking lot unused. This was shown in photographs at the busiest time of year during an application approximately two years ago.

**Mrs. Patterson:** Asked if it was possible instead of changing the zoning regulations, to make this a Special Permit for this location, so that other health facilities could be seen if they come up?

**Mr. Sulkis:** It is by Special Permit in this zone, which, because it is a zone text change, would affect other properties. There are one or two other properties in this zone. The main other property is the Milford Cross Shopping Center. There may be other peripheral properties adjacent to that. By making this text change whatever you grant the mall will also grant the ability to the other properties in the SCDD zone.

**Mme. Chair:** This application could be a Special Exception because it is not prohibited in the regulations at this point, so it could come before the Board as a Special Exception but would not affect the other properties in the SCDD.

**Mr. Knuff:** The difference between Milford Crossing and the mall is that malls are treated differently. Regional shopping centers under the regulations are treated differently. They would argue the mall would have to comply with the one space per 50 SF, if there was a health club at Milford Crossing. The mall is treated differently in the regulations and has always been treated differently.

**Mr. Mead:** Asked the hours of operation.

**Mr. Knuff:** Typically in Connecticut, 5:00 am to 11:00 pm. Those are their standard hours in CT.

**Mme. Chair:** Asked for public comment. Anyone to speak in favor of the application? (No reply) Anyone to speak in opposition?

**Mr. Knuff:** Asked that the Board not vote on this matter tonight in view of two of the members having left. On a regulation change he needs a majority of the seats, not a

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

majority of those present. Asked that the two members who left listen to the tapes and be able to vote as a full board for the reg change.

**Mme. Chair:** Closed the public hearing.

4. **128 MONROE STREET - (ZONE R-7.5)** Petition of Keith Araji for approval of a three-lot subdivision on Map 20, Block 259, Parcel 4, of which HB Enterprises, Inc. is the owner.

**Abigail Adams, Landscape Architect with CCA Engineering, Brookfield, CT,** representing HB Enterprises the property owners of 128 Monroe Street. Keith Araji is present as the agent for the application. 128 Monroe Street is located on the west side of Monroe Street in the R-7.5 single family residential zone. The parcel is approximately three-quarters of an acre. There are no wetlands or water courses located on this site. The site is not located in an area of concern as per the natural diversity data base maps. Surface run off on the site is from the west (upper portion of the property), down to the east, down to Monroe Street. The site is somewhat wooded with several significant trees that are shown on the plans and also some scrubby undergrowth. A single family dwelling was on the site that has been demolished in the recent past.

The site is currently served by sewer. There are three existing laterals on the site. It is also served by City water with one existing lateral.

The property was originally four lots in the original subdivision. When the original house was constructed, the Town dissolved the lot lines and the applicant is proposing a simple three lot subdivision with associated site improvements. The proposal is for a two story framed dwelling, approximately 1500 total square feet, with a one car garage on each of the three lots. Surface drainage and footing drains would be picked up by a series of standard catch basins and roof drainage would be directed to underground recharge galleries. A private driveway is proposed for each of the lots with its own curb cut. The existing curb cuts would be replaced with new curbing. The sidewalk adjacent to Monroe Street will be repaired and concrete aprons are proposed and will be installed for each driveway per city requirements. Also proposing a one-way sign at Lot 3 in the divider island just for clarity for traffic concerns with that driveway, as it does not align with the current cut through that is on Monroe Street.

With regard to landscaping, proposing to keep several large trees on site. Other trees that are in poor condition or interfere with construction will be removed. The Tree Commission reviewed the plan and subsequently their comments were addressed and the changes approved. Also proposing the installation of nine new three-inch caliper deciduous trees, both maple and oak. The trees are located along Monroe Street. They are set back a little bit. There are also deciduous trees toward the back of the property.



**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Sulkis:** There were two departments that had concern about where the driveway is located on Lot 3. The consulting engineer for the City was concerned that it would be creating a situation where the residents would be going against traffic because it is not aligned with the cut through on Monroe Street. There was also concern that the driveway, as proposed, does not meet City specifications. It is too wide.

The Police were also concerned and wanted to see the house redesigned as it would promote traffic down the street in the wrong way as people are trying to get where they are going. That driveway should be aligned with the cut through on Monroe Street. Other than that, it is just the standard comments from City departments and requirements if the Board approves this.

**Mme. Chair:** Asked for a response concerning the police report.

**Ms. Adams:** The concern is with Lot 3. She showed on the display where the driveway of Lot 3 does not align with the cut through as traffic moves in one direction. The concern is that someone will out of the driveway on lot 3 and go through the cut through. The applicant is proposing a new one way sign so people coming out of the driveway know and it is the hope that people would follow the rules of the road.

They looked at mirroring and flipping the house, and although it would appear that if that was done it would line up perfectly, but it ends up only being just a couple of feet over and the majority of the driveway still does not line up. The house and garage would have to be completely redesigned to meet the comments of the Traffic Division, however, the applicant would like to stay with the same architecture for the three houses if possible.

The report from the Milford Police Department dated June 3, 2011 in response to the applicant's response to Mr. Sulkis, stated: "It is the recommendation of this report to have the Planning and Zoning Board review the feasibility of mirroring Lot 3 to accommodate the recommendation. If it is not feasible to accomplish this task, the proposed plan may then be considered for approval without meeting the recommendation. The applicant has looked at doing that and it ends up with maybe three feet that will help, but it will still not be properly aligned.

**Mr. Ferrante:** Asked that pervious surfaces be used where applicable, such as lawnscapes, pavers, etc.

**Mr. Aragi:** Will not pave the driveways if that is the Board's request. Will use processed materials.

**Mr. Ferrante:** Stated if the police says the driveway does not line up, the applicant has to do something about that.

**Mr. Aragi:** The way the lot lines are on that end, no matter how the house is flipped, it cannot be pushed close enough to the property line. If the people are going to break

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

the law, they will break the law. They are trying to make the three houses coincide to the subdivision. Tried to push it over but will be too close to the property line. With such a small house it is difficult to reconfigure the downstairs in order to move the garage and driveway.

**Mr. Liddy:** Asked why Lot 3 had such a wide apron cut compared to the other two lots, with the houses being almost identical.

**Ms. Adams:** On lots 1 and 2 the houses were able to push back a little bit farther because of setback. Not able to do that on lot 3. In order to get a second or third driveway or area large enough for cars to maneuver and turn around, it had to have a wider opening. Also noted they were at 22 feet wide and reduced it to 20 feet, which is required.

**Mme. Chair:** Asked if there was anyone to speak in favor of the application? (No response) Anyone to speak in opposition? (No response)

Asked if there was no way to redesign the house on Lot 3 to accommodate the comments of the police report.

[Mr. Adagi conferred with Ms. Adams]

**Ms. Adams:** It appears the applicant may be willing to change the architecture a bit to do a side garage. The foot print of the house would be increased a little bit and then do a side garage to accommodate that.

**Mr. Adagi:** Via the display attempted to explain the change he would propose in order to meet the comments of the Police Department.

**Mme. Chair:** Gave the applicant an option to hold the public hearing open so they could come back in two weeks to address the police comments on Lot 3.

**Ms. Adams:** Asked if they could submit with a new footprint.

**Mr. Sulkis:** The record will be kept open for the applicant to address the comments that the Board made and the Police Department made.

**Mr. Mead:** If the garage is put on the right hand side, make sure the applicant will not have to go for any variances.

**Ms. Adams:** Yes, they will make sure they stay out of that realm. The applicant stated they would like to keep the public hearing open to address that issue.

**Mme. Chair:** The public hearing will remain open.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**E. PROPOSED TEXT REGULATION CHANGE - Discussion**

**Section 2.5.5 Lot Access and Rear Lots**

**Mme. Chair:** Asked for a motion to table this discussion.

**Mr. Vetter:** Made a motion to table this item.

**Mrs. Patterson:** Second.

All members voted in favor.

**F. BOARD MEMBERS GREEN GUIDELINE BOOK AND BY-LAWS**

**Mr. Vetter:** The subcommittee met and had its first meeting. Will update the Board at the next meeting.

**G. PLAN OF CONSERVATION AND DEVELOPMENT**

**Mme. Chair:** A letter has gone out. Calls have started to the boards and commissions. Ms. Harrigan has informed her that they have gotten the school project back.

**Ms. Harrigan:** A school project in the form of a questionnaire was sent home with some sixth grade classes from East Shore Middle School. She will compile the questionnaires that were sent in a very loose fashion in terms of the questions that were asked and the responses that were received and the number of those responses. For example, if a question was, "What are some of Milford's strengths" and several students responded "beaches and coastline", she would tally those so that the Board would get representation as to how many people provided that particular answer. She will have that information available at the next meeting.

**H LIAISON REPORTS**

**Mme. Chair:** She has one from the ZBA liaison who was unable to attend the last meeting. On Monday, to make the Board aware, an application on Laurel Avenue was heard by the Zoning Board of Appeals. There had been a fire on Laurel Avenue and two of the houses had been damaged and both houses were eventually knocked down.

This application went before the ZBA with a request to do two things: One was to vary Section 6.2.1. What that does is an enlargement and extension alteration to the building, as well as Section 6.2.6. The Board did go through a 50% rule; that when 50% more over you have to bring everything up.

When the ZBA ruled they gave a variance and the variance was to allow a multi-family, which the structure had been before the fire to remain multi-family, even though it has been deemed a residential area. Typically, in practice, when somebody wants to vary it

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

is typically a Special Exception which comes before this Board. Wants to make the Board members aware of it. Also, this is a reminder that variances of this nature goes with the property. That means it is in perpetuity. That where a residential zone has been deemed, that piece of property remains forevermore available for the multi-family. That is where she is in terms of looking at this. Ms. Harrigan represents the staff at the ZBA. Speaking for herself this is too close to what she would call spot zoning. Also, it seems to her that she cannot recall the ZBA weighing in on an issue that was not about lots and her understanding of the ZBA is about hardships due to lot size or constraints about this. This was simply about the use and the fact that a person could no longer use that property as it had been before an act of God had occurred.

She stated she was making the Board aware of this and asking for guidance as to how to move forward. Her concern is about this individual property in a residential ... but also she does not know the implications for going forward on other applications or

applicants who decide to avail themselves of the ZBA, rather than the Planning and Zoning Board under the normal procedure for a Special Exception. Her meaning of the Board's regulations governing the Zoning Board of Appeals would indicate this is way beyond the scope of what the ZBA would do. Asked Ms. Harrigan if she described the situation properly.

**Ms. Harrigan:** Just to make it a bit more simple in terms of description. This was a two-family house that burned down. It is in an R-5 residential zone, which only allows for a single family home construction and what they were allowed to do [by variance] was essentially to rebuild a two-family house on this lot where other properties are subject to building back only a single family house. So, it provides a use for this property which is not available to other property owners in the same zone.

**Mrs. Patterson:** Why wasn't this brought to the P & Z Board?

**Mme. Chair:** Answered she did not know why it was not brought before this board.

**Mrs. Harrigan:** The application was submitted to the Zoning Board of Appeals which the Board was instructed to accept. Once the Zoning Board of Appeals accepts an application can hear that application.

**Mrs. Golden to Staff:** Why can the ZBA see something before the P & Z Board can? Is this a common practice that someone can just bypass the Planning and Zoning Board and go straight to the other board?

**Mrs. Harrison:** The request was to vary a section of the regulations. So, they submitted that application to the Zoning Board of Appeals. However, normally, variance applications are due to lot characteristics; hardship of the land based on lot characteristics. They made the argument of varying a different section of the regulations.

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mme. Chair:** Stated she did not want to go back over the reasoning of the ZBA. There are times when the Board had discussions as to what is a hardship or not, and that is a judgment call. The ZBA sits as an appointed board and this board respects their judgments. She did not know what this Board's judgment would have been had it come before this Board, as have other applications for a change of use and one, specifically, in this zone that came before this Board asking for a Special Exception for a previous use, which this Board did rule on. There is an underlying concern of hers, or lack of understanding that when she reads the powers and duties of the ZBA under granting variances, it is lot characteristics to vary the strict application of any of the requirements of these regulations in the case of an exceptionally narrow, shallow, or steep lot or any other physical conditions for which strict application will result in exceptional difficult or unusual hardship. The Board may disagree over what hardships are, but she cannot disagree that this is a lot characteristic, but they have ruled on a use. They have ruled on a change of zone for a single property.

**Mr. Liddy:** Can one board sue another for usurping the other's privileges, rights and responsibilities?

**Mme. Chair:** Responded "sue" is a strong word.

**Mr. Liddy:** Obviously they usurped this Board's rights.

**Mme. Chair:** She came upon this on Monday. She was not present when they met on Tuesday. The process of the Board is many fold and it depends. Her understanding is that the Board could seek to appeal on this. That the Board may have standing in terms of saying -- just like anybody else who is affected by that would have standing -- the Board did not talk about the proposed regulation changes, lot access, but if Mr. Dickman was here he would remind us that some of this flowed out of some concerns regarding ZBA. The Board can look to its own regulations in terms of saying what can it do to prevent this, though she does not like antagonism, but she does not like playing whack-a-mole with the ZBA trying to pinpoint and she is looking at a piece of property that has forever more been changed, unless there is an appeal process used. That is her view.

**Mr. Ferrante:** Asked how this process is handled administratively? Someone comes in with an application to the Zoning Board of Appeals and he is told this is not a function of the Zoning Board of Appeals. What happens next, or what did happen?

**Ms. Harrigan:** The applicant demanded that the ZBA accept its application and the ZBA was instructed to accept it.

**Mr. Ferrante:** Asked what she meant by "instructed".

**Ms. Harrigan:** The City Attorney's office was consulted who told staff that if an applicant would like to submit an application, it has to be accepted, even if, based on staff determination, it is not something that they feel that is within the Board's ability to

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

review. If someone wanted to submit a subdivision application to the ZBA, even though in the P & Z regulations it is clear that it goes to the Planning and Zoning Board, if they want to submit it to the ZBA, they can submit an application. The ZBA can at any time say, "This is not what we look at. We don't want to look at this application". That did not occur in this circumstance.

**Mme. Chair:** That raises the next logical question. What happens if they make a ruling on it? That is what the Board is being asked to do.

**Mr. Sulkis:** In the case of subdivision, the statutes are clear. Only the planning board has jurisdiction in a subdivision.

**Mme. Chair:** Said she had the draft minutes and wanted to see the reasoning that if this is a one off; if this was something that would give some clarity. She circulated the draft minutes from the ZBA meeting of June 14, 2011. There is a lot from the attorney. There is no debate for her to follow to find out if there is something exceptional or a reasoning that this board could look at and say, "Well, we may disagree, but at least it is a narrow ruling". It acknowledges that these are extreme circumstances or something. In the minutes, which is a public record, there is not a reason stated for why, so that is troubling to her.

Asked for comments from the Board.

**Mrs. Patterson:** Now that this has been approved by the ZBA with a change in usage, what can this board do at this point to prevent this from happening? What recourse is there?

**Mme. Chair:** The question is two things: Stop this particular change or things going forward. The only way to stop this – 42 Laurel Avenue – from going forward would be for this board to initiate an appeal within the next 15 days from the posting. It must have been posted on Thursday or Friday.

**Ms. Harrigan:** It was posted this past Monday in the newspaper.

**Mrs. Patterson:** Felt this board should appeal this because it shows that other people may go through the loopholes. This board does not know what will happen. Has a big problem with the change of use.

**Mr. Mead:** Even though they approved it, would the Board have to approve their application with a set of plans?

**Ms. Harrigan:** Because this is within the coastal site plan area, and this is no longer exempt as a single family residence because this will be rebuilt as a two-family house, by State statute this is required to come before this board but the use has already been decided. So, unless based on the two family use they are not able to accommodate certain standards of the regulations where it was enough that the board felt that it was

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

something it could prove based on other requirements of the regulations, that would be the Board's only grounds for denial, if it could not meet the other requirements of the P & Z regulations. But this will have to come before the Board because it is not a single family and is no longer exempt.

**Mme. Chair:** This would be a CAM like the board would have where there are waivers on the side yard setbacks.

**Mr. Vetter:** Stated he has a problem in that the P & Z does not govern other boards, so it does not watch what Wetlands does and try to impact that. What normally happens when the Board looks at this is staff gives the Board advice and the Board generally follows it. If they have a concern with it and it is within its purview, the Board can consult the City Attorney and get his advice. This is a little uncharted. He was not aware of another board questioning what this board does. It puts this board in an odd position. Clearly they are pushing the bounds of what the Planning and Zoning Board has agreed to hold as the City's regulations, but it is another board. It is a very unusual situation.

**Mme. Chair:** Agreed it is unusual and unfortunate, but she believes in community and believes this board is responsible for looking at the larger community.

**Mr. Liddy:** Made a motion to extend the meeting to 11:20.

**Mr. Ferrante:** Second.

Six members voted in favor. Mr. Vetter was opposed. Motion carried.

**Mr. Ferrante:** Tonight the Board is under time constraints. Ask the City Attorney to file an appeal. City Attorney is present tonight. Perhaps he should speak about this. Would like to appeal this and would not want to miss the 15-day appeal period.

**Mme. Chair:** The Board will consider appealing based on some due diligence that it actually has grounds to do this.

**Mrs. Patterson:** Agreed that action had to be taken on this. Time is of the essence.

**Mr. Vetter:** Asked if the City Attorney should speak now, or if there would be a time frame where the matter was presented to the City Attorney's office and the Board would make a decision perhaps at a special meeting.

**Mme. Chair:** Will find out if this can be done and go from there.

**Mr. Ferrante:** Said the Board should instruct the City Attorney to stop the clock. The only way to do that is to file the appeal. There will be more of a rush if the Board does not give a directive to the City Attorney. Does not want to wait for a telephone call or

**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

call a special meeting. Should file an appeal and then see what's going on, as this does not sound right at all.

The Chair took a show of hands as to who wants to ask the City Attorney to initiate an appeal regarding 42 Laurel Avenue. All members present voted in favor of having the City Attorney initiate an appeal to the ZBA's decision on 42 Laurel Avenue.

**Mr. Ferrante:** Moved to instruct the City Attorney to file the appropriate court action to determine whether or not this action by the Zoning Board of Appeals was appropriate in light of the rules and regulations of the Planning and Zoning Commission Land Regulations of the City of Milford.

**Mme. Chair:** Asked to make it more simple.

**Mr. Ferrante:** Moved to initiate an appeal on that ruling.

**Mr. Vetter:** Isn't the normal process to solicit guidance from the City Attorney? But the Board is asking to initiate an action as opposed to asking for guidance.

**Mme. Chair:** Believed the Board should move forward with the appeal.

**Mr. Vetter:** Thought in two weeks the matter could be discussed. Does not know why paper work would be filed without knowing all the facts. Thought the Board should be more informed about the circumstances that occurred and evaluate the board's options when they have more information. Believes there is time within the 15 day period to get fact finding from the City Attorney's office.

**Mrs. Patterson:** Understood Mr. Vetter's concerns but thought the appeal should be filed and put the ZBA on notice. It can always be taken back if there are not enough grounds to go forward. There is a time element.

**Mr. Liddy:** File it and it can always be withdrawn if the Board finds out from the City Attorney there are no grounds for filing. There is a clock ticking.

**Mr. Vetter:** Trying to find out what the right legal approach is. The ZBA already made a decision that has taken place. There may be more than one option to the legal approach.

**Mr. Ferrante:** Staff has advised the Board that if something is not done in 15 days nobody can do anything. He thinks the Board has to do something. Only thing it can do is appeal, which is a far safer course of action than waiting. There is no choice other than to look the other way.

**Mme. Chair:** She agrees.



**MINUTES FOR THREE (3) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, JUNE 21, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Vetter:** Clarified he was not disagreeing but felt there was 14 days for fact finding before an appeal is filed. He is being cautious.

**Mr. Liddy:** Moved that the Planning and Zoning Board appeal the decision of the Zoning Board of Appeals decision on 42 Laurel Avenue.

**Mrs. Patterson:** Second.

All members present voted in favor. The motion passed.

**LIAISON'S REPORT**

**Mr. Mead:** The Wetlands has received an application for 31 rental units on Cascade Boulevard. At the next meeting he will have the full presentation.

**I. APPROVAL OF MINUTES – (6/7/2011)**

**Mr. Vetter:** Moved to accept the minutes of the 6/7/2011 meeting.

**Mr. Liddy:** Second.

All members voted in favor of approving the minutes as presented.

**J. CHAIR'S REPORT - None**

**K. STAFF REPORT**

**Mr. Sulkis:** The contract for the Plan of Conservation has been received and he has signed it. The funds for this project have been encumbered. Mr. Plattus will sign the contract upon receipt of the deposit check.

**Vetter:** Motion to adjourn;

**Mrs. Patterson:** Second.

The members moved to adjourn the meeting at 11:13 p.m.

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Phyllis Leggett, Board Clerk