

PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD WEDNESDAY 18 JULY 2023, 7:00 PM VIA ZOOM

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

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: N. Austin, J. Castignoli, E. Hirsch, J. Kader, B. Kaligian, J. Quish, R. Satti, M. Zahariades

Not Present: J. Mortimer

Staff: D. Sulkis, City Planner; M. Greene, Rec. Sec'y

Chairman Quish opened the meeting and invited City Attorney Jon Berchem, City Planner David Sulkis, DPLU Director Joe Griffith, and board members into executive session.

C. NEW BUSINESS

1500 Woodward Rd Primrose Development v. Milford Planning & Zoning Commission

The board went into Executive Session at 7:03 and returned to resume the meeting at 7:15.

88 Elder Street (Zone R-7.5) Petition of Alan Shepard, NOK Associates, for a Coastal Area Site Plan Review to construct a single-family dwelling at Map 035, Block 429, Parcel 3, of which Howard and Stefanie Krieger are the owners.

Mr. Shepard addressed the board. He described the project, starting with demolition of the previous structure and a plan to rebuild a house in nearly the same footprint. He said the project was before the board due to the parcel's proximity to the Sound.

Mr. Sulkis read his administrative summary, which was consistent with the presentation. He said no adverse coastal impacts were expected and that the plan is substantially zoning compliant, but he cited a concern raised by the City Engineer about potential stormwater or footing discharges causing offsite issues unless the project is implemented exactly as proposed. Mr. Sulkis advised that the City Engineer's letter dated 28 June 2023 should be made a condition of approval.

Mr. Satti moved to approve, with the modification of incorporating the 3 Comments of the City Engineer in a letter dated 28 June 2023, the petition of Petition of Alan Shepard, NOK Associates, for a Coastal Area Site Plan Review to construct a single-family dwelling at Map 035, Block 429, Parcel 3, of which Howard and Stefanie Krieger are the owners.

Second: Mr. Hirsch seconded.

Discussion: None.

Vote: Motion carried unanimously.

Draft POCD A Board discussion of the draft POCD for the purpose of referring it out to the South Central Regional Council of Governments and Board of Alderman for comment.

Chairman Quish said if the draft was approved by the full board, it could be circulated to other regional stakeholders after which there would be at least one more public hearing. He asked Mr. Sulkis to comment, **Mr. Sulkis** described a process that incorporated public comment over several public hearings as well as submitted written comments. **Chairman Quish** noted that Adam Tecza was online to answer any questions from the board. Hearing none, **Chairman Quish** asked for a motion.

Mr. Castignoli moved to refer the draft POCD to the South Central Regional Council of Governments and Board of Alderman.

Second: Mr. Hirsch seconded.

Discussion: None.

Vote: Motion carried unanimously.

D. PUBLIC HEARINGS

CLOSE BY AUGUST 22, 2023; VOTE BY OCTOBER 26, 2023

Proposed Regulation Change 22-9 Petition of the Planning and Zoning Board for a change to Milford Zoning Regulations Article VI, Section 6.4.2: Use of Nonconforming Lots when Applicants or Predecessor Own/Owned Adjacent Land and Section 6.4.4: State Statutes

Chairman Quish asked Mr. Sulkis to provide an overview.

Mr. Sulkis explained that under the previous merger regulation, Section 6.4.2, parcels were certified as lots by requiring proof that abutting, same-owner, non-conforming lots had never been merged via a combined use. He noted that such proof was often difficult to document. Then approximately 2 years ago, he said the board removed the 6.4.2 regulation with the unintended consequence of “un-merging” certain lots of record. He said some builders then had the pre-1929 lots certified in order to increase development density and that neighbors of increased density took exception to the practice. He said the new draft 6.4.2 regulation removes ambiguity about the existence of merged lots as it is predicated on the operation of law. He noted that operation-of-law is the regulation used by many Connecticut municipalities. Under the operation-of-law, the merger regulations says that 2 abutting, same-owner, nonconforming lots are considered merged.

Chairman Quish asked for public comment.

Robert Maslan, Esq., 30 Old Kings Highway South, Darien, said he represented the Board of Managers of the Laurel Beach Association and introduced LBA chairman John Shanley. He said he had submitted comments via email earlier and handed out print copies to the board. He said he was in favor of the proposed resolution but thought there was a better method. He said lots approved under 6.4.4 subdivision rules were protected by a review process. He said these functions were covered by state statutes 8-26a, 28a and 28b in that once a subdivided lot is approved, subsequent changes to zoning or subdivision regulations do not apply to it. He cited a case involving Wilton as being relevant wherein after the first action is taken to develop a vacant lot; subsequent development must conform to current zoning regulations. He said he objects to a lack of definition about what happens after lots are merged and what allows a zoning permit to be issued. He said the current 6.4.2 draft doesn’t describe the next step for getting a zoning permit. He suggested that after nonconforming lots are combined, the property owner can get a zoning permit if a list of conditions is met, which conditions he listed. He shared thoughts about combining the several Milford zoning merger regulations. He also expressed confusion about who is authorized to certify nonconforming lots—the Zoning Enforcement Officer or an applicant’s attorney.

Chairman Quish asked that Attorney Maslan conclude his remarks per the time constraint on public comment. **Chairman Quish** also said he wanted to disclose that he’s a member of the LBA but did not feel he should be recused from the matter. **Mr. Satti** said he had the same membership and similarly did not feel it was a conflict of interest.

Donna Dutko, 236 Buckingham Avenue, asked if merger regulations apply only to residential districts. **Mr. Sulkis** said they apply to all zones, but issues have not arisen in commercial zones because those lots tend to be large and tend not to be owned in multiple blocks. He added that most of the city’s commercial zones were created in 2004, but the residential zones were created much longer ago.

Chairman Quish suggested keeping the hearing open to study the submitted information. **Mr. Kaligian** said he agreed and wanted to consider whether any further revision of the 6.4.2 would eliminate manipulation of parcels. Discussion ensued between **Mr. Hirsch** and **Attorney Maslan** about what makes a lot nonconforming. **Mr. Satti** asked if Attorney Maslan represented the LBA in court or before the Zoning Board of Appeals. When Attorney Maslan said he had presented to the ZBA, Mr. Satti asked why this information was not disclosed prior to public comment because a particular outcome would benefit Attorney Maslan in a pending lawsuit. The board agreed that the item should be held open.

242 Buckingham Avenue (Zone CDD-4) Petition of Molly Rentals LLC for a Special Permit to construct a 20-Dwelling Unit Residential Complex at Map 55, Block 545, Parcel 6, of which Tom Hayes is the owner. **POSTPONED TO 8/1/23**

- 1) **LIAISON REPORTS**—None.
- 2) **SUBCOMMITTEE REPORTS**—**Chairman Quish** noted the evening’s activity on topics from the subcommittees.
- 3) **APPROVAL OF MINUTES—7/5/2023** minutes were approved unanimously.
- 4) **CHAIR’S REPORT** – None.
- J. **STAFF REPORT** – None.
- K. **ADJOURNMENT** was at 7:51.

Attest: M.E. Greene

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

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