

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the meeting August 4, 2009 meeting of the Planning and Zoning Board at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Frank Goodrich, Mark Bender, Kathy Patterson, Kim Rose, Kevin Liddy, Susan Shaw, Greg Vetter, Victor Ferrante, Jeanne Cervin, Chair.

**Not Present:** Janet Golden

**Staff:** David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner; Rose Elliott, Board Clerk.

**C. 1. WALNUT BEACH PARK BOARDWALK** Request by Bruce Kolwicz, Public Works Director, for Coastal Site Plan Review approval for the construction of approximately 1,000 linear feet of boardwalk in Walnut Beach Park on behalf of the State Department of Environmental Protection State Parks and Public Outreach Division, located at the corner of East Broadway and Viscount Drive on Map 017, Block 150, Parcel 003, of which the City of Milford is the owner.

**Ms. Harrigan:** The packet of information the Board receives briefly summarizes the project. The project includes Walnut Beach and Silver Sands State Park and is a project coordinated by the DEP and Public Works Division who coordinated the design and will coordinate the construction of the project.

Ms. Harrigan noted the changes by the State DEP Wildlife Division and Coastal Planning Division in their review process of the 1000 linear feet of the Walnut Beach portion.

**Mr. Goodrich:** Questioned if the parking lot met the City standards for parking.

**Ms. Harrigan:** Stated the boardwalk would not be within the actual paved area of the parking lot and will not conflict with the existing parking.

**Ms. Shaw:** Asked about the access road that was to be constructed.

**Ms. Harrigan:** That will be for beach maintenance and emergency vehicles.

**Mr. Vetter:** In the July 24<sup>th</sup> memo from the DEP, was a response required for their approval?

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
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**Ms. Harrigan:** This was a summary of the Plover Management Plan. The plan had been confirmed via an internal email from Julie Victoria.

**Mr. Liddy:** Asked if the proposed boardwalk would connect with the current boardwalk.

**Ms. Harrigan:** The 1,000 linear feet connects into 2,400 linear feet to be added to Silver Sands, which then connects into the existing Silver Sands boardwalk. The project in total is 3,400 linear feet of boardwalk.

**Ms. Shaw:** Made a motion to approve the request by Bruce Kolwicz, Public Works Director for Coastal Site Plan Review approval for the construction of approximately 1,000 linear feet of boardwalk in Walnut Beach Park on behalf of the State Department of Environmental Protection State Parks and Public Outreach Division, located at the corner of East Broadway and Viscount Drive on Map 017, Block 150, Parcel 003, of which the City of Milford is the owner.

**Mr. Ferrante:** Second.

**Mr. Goodrich:** Mentioned the Board of Aldermen has established a committee to oversee this project to make sure they comply with building codes.

**Ms. Harrigan:** Stated this was a State project and they do their own review. The City does not issue a building permit.

**Mr. Goodrich:** Stated he was concerned about the parking and loss of parking spaces.

**Mr. Sulkis:** Do not expect an impact on parking, but the City can restripe the lot and create a different configuration. Since there is no parking requirement for going to the beach, any parking that is provided is a bonus. By putting in a boardwalk, the City is providing a better pedestrian path to the beach.

**Ms. Rose:** Stated she agreed with the benefits that Mr. Sulkis stated and would like to see this boardwalk project move forward.

**Mme. Chair:** This boardwalk will be a great addition to Milford.

All members voted in favor of the motion, which passed unanimously.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
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CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**D. NEW BUSINESS**

2. **21-23 DANIEL STREET (ZONE MCDD)** Petition of John Wicko for a Minor Amendment to a Special Permit to approve the façade design of the Daniel Street Restaurant on Map 54, Block 397, Parcel 1, of which Richard Conine is the owner.

**John Wicko, Architect, 50 Broad Street**, present on behalf of Rich Conine, of 15 Daniel Street in Milford. Requesting a Minor Amendment to a Special Permit that was granted in March of 2003. Since then, the building has taken on different projects. The use of efos, a synthetic stucco material, was granted in 2003 to be a brick material that was existing. Proposing that the as built condition depicted on drawing A-6 be the condition that is permitted to remain.

Mr. Wicko reviewed the drawings he had sent to the Board which depicted the history of the building and the some changes that were made to the exterior that should have come before the Board for approval. It was Mr. Conine's intention to improve the condition of the building and a two-part renovation to the front façade was developed. It included taking the existing efos down on the second story and proposing to put a brick face on it. In the lower section, where efos had been installed, it was proposed to put panels and stone at the curb edge and at the sill. The lower section has been completed but the upper section was not due to some technical difficulties. In view of that, it was decided to leave the second story as is and come before the Board for the Minor Amendment. He described the detail of the look, with approximately 25% of the façade that was not executed as the original approval in 2003.

**Mme. Chair:** Asked for Staff's comment.

**Mr. Sulkis:** Said he could not issue a Certificate of Zoning Compliance unless this was brought back to the Board to ask for the change, because this did not match what had been originally approved.

**Mr. Ferrante:** Asked if it was Mr. Wicko's intention to get the Board's approval to leave the building the way it is now.

**Mr. Wicko:** Yes.

**Mr. Ferrante:** Made a motion to approve the applicant's request.

**Mr. Goodrich:** Second.

**Mr. Liddy:** Asked if there were to be any more improvements.

**Mr. Wicko:** There may be some in the future, but nothing planned at this time.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Ms. Rose:** Questioned the fences that were shown on the drawings.

**Mr. Wicko:** They were thought to be needed for noise control and for access to the side yards. They pertain to an application in 2005, but were not implemented. They may be reintroduced in the future.

**Mr. Sulkis:** Stated the 2005 application was approved by the Board as well as the Board of Aldermen and should they wish to implement the plan, they will be able to do so.

A vote was taken. All members voted in favor. The motion was approved unanimously.

**E. RESCHEDULED PUBLIC HEARING CLOSES BY 8/25/09; exp. 10/30/09**

3. **1183 ORONOQUE ROAD (ZONE HDD)** Petition of Grillo Organic, Inc. for an Amendment to a Special Permit and Site Plan Review for recycling operations for leaves and grass clippings, including without limitation, for composting, volume reduction, resizing, recycling, repackaging or reuse on Map 50, Block 935, Parcels 1 and 1B, of which Blackite Corporation is the owner.

**Mme. Chair:** Apologized to the applicants for bumping them from the previous public hearing.

**Benjamin Alderton, Esq., Palumbo and DeLaura, LLC, New Haven.** Said he understood the Board's situation at the last meeting.

Attorney Alderton stated he is representing Grillo Organic, who is seeking an Amendment to a Special Permit that was granted in 1993 under sec. 7.2 of the regulations, as well as a Site Plan Review. The sign has been posted in accordance with the regulations.

Grillo Organic is seeking to expand its composting operations. Not seeking, through this application, to do anything they do not already do. On July 23<sup>rd</sup>, revised language was submitted, which significantly reduces the scope of the original language that was submitted. The revised language seeks to expand the existing Special Permit to the entirety of the site to further establish recycling operations for leaves, wood stumps, brush and grass clippings, including, without limitation for composting, recycling and reuse of such materials. Limiting it to those materials that have been listed.

The operation of Grillo Organic is not only a green and environmentally friendly operation, but it is also favorable to the City. The City uses Grillo for its leaf processing.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mike and L.J. Grillo are present, as well as Martin Malin, PE with Tighe & Bond Engineering to speak about the application.

**Lawrence Grillo, General Partner of Green Cycle Grillo in Milford.** In 1993 he came before the Planning and Zoning Board for a Special Permit with DEP permits in place, to do leaf recycling and the Special Permit was granted. Since then they have grown from a small company to a company that employs 15-17 people. Through the years they have sold hundreds of thousands of yards of their recycled products. They need to expand their existing operations, which include grass, brush, leaves, stumps and logs. Would like to move next door to where the Milford Driving Range was and use it for composting of leaves. Mr. Grillo described how the leaf composting is processed and the types of topsoil that they make. Their soil and compost is all organic and safe in food production and the garden. Been in the business for almost 20 years. Primary goal is to keep doing their composting and expand to the golf course area.

**Mme. Chair:** Asked for Mrs. Harrigan's comments.

**Ms. Harrigan:** Staff has provided a review for this application, as they had for the last meeting for the application items that would be required for this type of application given its location in the CAM zone. There is no Coastal Area Management Site Plan Review for this site. The scope of this does not meet the exemption criteria. So that information is needed to review the application.

Also, they looked at some of the uses that were proposed and that is noted in the review submitted to the Board. The site plan was received on July 31<sup>st</sup> and has been distributed to the Board. The site plan does not meet the setback criteria. There are a couple of things that are in dispute in terms of where the property lines are. There are some areas of the survey that are unclear and this has been confirmed by discussions with the surveyor. Some areas are in dispute as to where the property lines are. Until there is concrete property information, the survey cannot be approved.

**Mr. LJ Grillo:** Stated they were approved for that site plan in 1993. They were approved for sheet flow.

**Mrs. Harrigan:** What was approved originally was a 3.75 acre portion of the 17 acre site. That portion that was approved did not get anywhere near what is represented on the plan that is before the Board. The approved site in 1993 was a smaller configuration.

Mrs. Harrigan showed via a display the portions of the New Meadow Road property she was describing on the site plan. That road may have been abandoned, but there is no proof of that, and they cannot be granted a permit to build on that property line if there is no proof that the property has been expanded.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Sulkis:** The Board cannot grant permission for an applicant to use someone else's property.

**Mr. LJ Grillo:** Said he realized that and they showed on the plan that the fence has been moved back to the property line. When it is determined who actually owns the property, the concrete bins can be moved back.

**Mr. Ferrante:** Attempted to clarify: It is not known if it is a paper road and who owns it. Assuming the worst, that the road is a valid City street, asked Mr. Grillo if he was going to provide a setback from that paper road?

**Mr. Grillo:** Yes. He is willing to move his bins back to the property line depicted on the survey.

**Mrs. Harrigan:** The survey shows the paper road but it still does not meet the HDD requirements, which require specific setbacks and cannot have their materials on the property line.

**Michael Grillo, Owner, Grillo Organic, Inc.** Regarding Mr. Ferrante's question, they would be willing to move in compliance with the current HDD District setbacks, which is 30 feet off the edge of the road.

**Mr. Ferrante:** Assume the worst, and then if you can prove that it is not a street, spread out. Is that what he is telling the Board?

**Mr. Michael Grillo:** According to his surveyor, if it was not a road, then half of it would go to Beard and half would go to McNeil. That is what is usually done when a road is abandoned; half goes to one owner and half to the adjacent owner.

**Mme. Chair:** The frustration is that the Board does not have enough, or accurate, information to even discuss this accurately.

**Mr. Michael Grillo:** They have showed moving the bins off New Meadow Road, no matter whose road it is. That is what they are planning to do.

**Mrs. Harrigan:** [Continued] The review provides a list of items that were not provided. DEP property is directly adjacent to the northern part of the property. When they send this to the DEP, they can hopefully confirm where their property starts. There is also drainage infrastructure that is existing that is shown on an adjacent property. If that is to remain, they need easement information. Approvals are not issued except for the subject property that is under review.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Another issue is the uses in terms of where they fit within the zoning regulations. This was approved as a Special Permit, not a Special Exception. Based on this, as best that it can determined, this was perhaps approved as a principal outside storage yard or use in terms of the original leaf compost approval. With the proposed uses that were included, she has tried to break those down into, "Are these things that can be approved", "How would they be approved", and in what section of the regulations, because they have to look at the use, look at the site, so in terms of the uses, the leaf compost facility was approved and it was approved for that outdoor storage.

The Statement of Use was very limited in terms of the way the site actually operates.

This property is within the flood hazard zone and it is not clearly delineated on the survey as to where that zone is. That needs to be identified in the survey. For the survey that P & Z has, as well as the recent plan that was received last Friday, although contours are shown, no elevations are given and that is a requirement. So, there are also deficiencies in what P & Z requires for a site plan review and Special Permit review section.

DEP has given Grillo a permit for leaf composting. Not certain if DEP has given approval for their other processing activities. They have gone beyond the leaf composting in terms of use and site area. The Board has to look at those things

and determine whether or not those new uses that exist on site and that are proposed for expansion on site fit within the regulations, and whether or not the site area is appropriate to not cause any adverse impact based on that expansion.

Stated she went to the site yesterday and one of her concerns is the visibility coming out of the existing driveway. Screening is required on all sides of an outdoors storage use. A landscape plan is also required as part of this type of application. Showed that the driveway is limited in terms of visibility based on its angle in the way that it intersects with the roadway and the existing vegetation there.

**Mme. Chair:** Asked Ms. Harrigan if this had been discussed with the applicant prior to tonight's meeting and that they are aware of these issues.

**Mrs. Harrigan:** P & Z received this plan last Friday.

**Mme. Chair to Staff:** Confused as to why the Board is seeing this application.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Sulkis:** Responded that this application is being seen for the same reasons that 990 Naugatuck Avenue was presented at the last meeting. The regulations were being changed. The applicant demanded that Planning and Zoning take an application because they wanted to get in under the deadline for when the regulations changed. Since there was some concern over the case law and whether or not they could be denied the ability to submit an incomplete application, on advice of counsel, he was told better safe than sorry and let them submit what they have. They brought in the application. They wanted to be heard. He looked at the application and knew it was deficient. Like 990 Naugatuck, it was not circulated to other departments because he knew it did not meet the Milford Regulations. In a case where something does not meet the City's regulations, there is no need to submit it to other departments for review, since they are advisory to the Board and if it does not meet the City's regulations, we will not waste their time.

**Mme. Chair:** Stated she wanted this on the record. Asked for questions.

**Mr. Liddy:** Are there any zoning violations outstanding?

**Mrs. Harrigan:** They have expanded their use without permits. A Cease and Desist Order has not been issued for the property because the prior Assistant City Planner was working with them to resolve some of the issues. She, too, was working with them in terms of trying to get them ready for a new application.

**Mr. LJ Grillo:** Stated he was here to comply with some issues that were raised by the City of Milford. Asked Mrs. Harrigan if she considered them to be a landscape supply facility.

Stated in 2001 they built their office building and it states the present use of the property is for landscape supply and compost facility. [Distributed this information to the Board.]

**Ms. Rose:** Asked why in 1993 they were approved for 3.75 acres for a leaf composting facility. Now they are using over 11 acres and coming to the Board for 17 acres. At what point did they feel it was okay to circumvent Milford's zoning regulations and go ahead and expand their business to over 11 acres.

**Mr. Grillo:** They are currently using those four acres for leaf composting. The rest of the property is being used for storage of soil piles, compost storage piles. This has always been part of their business since 1993; leaf composting and compost mixed with soil. It is not something new. Neighbors are using the property for the same purpose.

**Mme. Chair:** Stated he was missing Ms. Rose's point that there has been no permit issued for the additional use of the 3.75 acres.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Alderton:** Asked to respond. The original four acres was part of the site plan that was approved. They are seeking to expand their leaf composting with this operation. However, to his knowledge, the other operations were on the site plan associated with that approval.

**Ms. Rose:** Asked about the proposed uses, i.e., will leaf composting include grass clippings, sand and gravel, etc.

**Mr. Alderton:** Will not include sand and gravel. Have tried to narrow the language and be very specific as to what they will do on the site. They took the Board's concerns related to the last public hearing and tried to narrow the scope of use.

**Mr. Goodrich:** Stated Ms. Harrigan spoke of them doing soil processing. The regulation referred to, Sec. 5.7.6.10 says rock crushers and rock processing is prohibited. Soil is not mentioned. Asked how the connection was made.

**Ms. Harrigan:** Read from Section 5.7 of the zoning regulations as they pertained to the processing of earth products.

**Mrs. Patterson:** Asked the number of acres that are currently being used.

**Mr. Grillo:** Ten to eleven acres.

**Mr. Vetter:** Requested more information on the process of composting.

**Mr. Michael Grillo:** Explained the process of making compost, which is then used as an amendment to the soils that they make for golf courses, for landscapers, and soil remediation products. This builds up the micronutrients in the soil to produce more fertile soil. Compost, unlike sewer sludge, does not have high levels of lead or dangerous bacteria, so it is safe for food production.

**Mr. Ferrante:** Yes, they did some expansion that was not appropriate, but given the change in the regulation, it seems there should be some way that this facility can exist, because they are not recycling plastic ...

**Mme. Chair:** Suggested this type of discussion be saved until after the public hearing closes.

Asked if there was anyone to speak in favor of this application.

**Anne Berman, 77 Pond Street.** Does not know all the details of what has transpired in that there has been extended use of this piece of property. As an environmentalist, this company is one of the most sustainable businesses in

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Milford and would like to see some way that this could be resolved so that this business can continue to serve Milford. They process the City's leaves. If this facility could not be located where it is, the leaves would have to be shipped out of the city. So the City is saving money by using this nearby facility. Hopes the problems can be resolved and this facility can be kept in Milford, because it is needed.

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

(No response)

**Mr. Alderton:** Said he would attempt to respond to the issues the Board members presented. Mr. Ferrante brought up the point of how they could continue to exist. Stated they attempted to pass this information to the various departments. When Mr. Grillo did that Mr. Sulkis informed him that it was not necessary. He, Messrs. Grillo and Mr. Malin, the engineer had made numerous attempts to glean some of the concerns that Staff had with the application. Standing before the Board tonight willing to address any concerns that the Board has with this application.

Mr. Alderton requested that the public hearing be kept open so that the necessary information could be submitted to the necessary City departments, and to correct some of Staff's problems with the application. This application was submitted with every intent to transmit it to the necessary departments, in accordance with the regulations. Given the opportunity, that is what they would like to do.

If the public hearing is closed, no more information can be received by the Board.

Some of the concerns can be waived by the Board, pursuant to sec. 7.2.11. The regulations contemplate that amendments are handled in the same manner as the original. They expected in the original application Staff commented, they made changes, there were agency reviews. They were not afforded that opportunity in this case. Are only asking in terms of fundamental fairness that they be allowed to do that and address some of those concerns.

The issue related to the property boundaries, especially to the northern part of the property, they have submitted an A-2 survey. There is no better evidence before this Board as related to the property boundaries as they stand today. Even though Staff has some concerns related to where the property boundaries are, this is an A-2 survey. It is signed off by the surveyor.

Regarding New Meadow Road, they are under the belief that New Meadow Road is abandoned. They have cited a deed that shows it as being abandoned. There

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

is a pump station in the middle of New Meadow Road that has been there for a long time. The Applicant has agreed to move and adjust things if the Board sees fit and they are willing to comply with any reasonable request of the Board.

This is a use that is beneficial to the City and its residents. The Applicant would like to see their business expand, and in these economic times, there are not many requests for expansion.

Tonight is the first time they are hearing some of the issues raised by Staff, for example, the flood hazard; the need for a Coastal Site Plan Review, etc. These matters can be addressed, but this is the first time they have been made known to the Applicant. So, there is no way to know that this is what they needed to do. Staff noted that they knew from the get-go that this would not be approved and it did not meet the regulations. However, the Applicant never received feedback as to how it could meet the regulations.

Attorney Alderton stated he attempted to schedule a meeting with Mr. Sulkis, who cancelled at the last minute. He understands that it was related to advice by counsel, however, they were disappointed because they wanted his input as to what they could or could not do to make their application conform.

The Statement of Use has been narrowed down sufficiently in scope to demonstrate that they are not looking to process sand and gravel. That is not what they do. They are looking to use it for composting and to blend the compost with topsoil and sell it again, which was contemplated in the 1993 permits. Visibility issues can be addressed as well. Elevations can easily be added to the plans.

The Applicant is before the Board seeking site plan review. If they are beyond the use approved in the 1993 permits, they would like to have an open and honest discussion as to how they can comply with the regulations. They are not here to circumvent the regulations and have no intention of doing so, regardless of what may have happened in the past.

Attorney Alderton stated that all these issues could be addressed. The Town and its residents need a place to dispose of its leaves. The one person that spoke in favor of the application acknowledged that. If the Board checks the DEP website, they will be referred to Grillo Organic as the facility in Milford to bring their leaves. It would be a shame for the City and its residents to lose that and to not have it expanded.

All they are asking for is the opportunity to work with the Board and with Staff to revise their site plan.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Grillo:** Recounted that in February 2008, Peter Crabtree [then Assistant City Planner] came to them and told them they have a pile too close to the road. It is within 30 feet of the HDD and it is out of regulation. After that a dialog was created and Peter asked them to move the pile and to do some landscaping in the front. Since then, nine Norway and Colorado spruce trees have been planted. A 30-foot landscape bed was created on two sides, and on the far side a couple of 8-foot spruces were planted. Other piles were moved in accordance with Peter's requests. They have been doing what they have been asked to do. He requested a map of their building and bins and they complied. After that Peter retired and Emmeline Harrigan took over and they have been working with her and complying with all her suggestions.

Does not think their organic recycling business located in a heavy industrial area cannot be compared to 990 Naugatuck, who is a garbage company in a residential area.

**Mme. Chair:** Stated the Board is aware of how the facility operates and values their operation and how they recycle, but some of the other issues are extraneous to the matter before the Board.

**Rebuttal:**

**Mr. Alderton:** In regard to the property line issues, he reminded the Board that it is not within their jurisdiction, according to case law, to determine property lines and that an A-2 survey had been submitted to the Board.

**Mme. Chair:** Stated this application was presented as an Amendment to a Special Permit, but that is not what the Board is talking about and she would like to close the Public Hearing.

**Mr. Goodrich:** The Applicant asked to keep the Public Hearing open to present required information.

**Mme. Chair:** Responded they could address this issue with another application. They have had two extra weeks and have had plenty of time to get information to the Board. Asked Staff to verify that the applicants had been informed previously about what was needed.

**Mr. Sulkis:** Staff was working with them to rectify the problem, which were discussed earlier this evening. They did not follow the process when they forced the Planning and Zoning Department to take the application. The Regulations which are available on line and in the office clearly spell out all the requirements and steps that an applicant needs to take and all of the materials that they need to submit. So, whether or not Staff told them that they need or do not need, the

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PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

fact of the matter is, and for the record, Staff had to take what was an incomplete application. Had Staff not been forced to take an incomplete application, like it does with every other applicant that comes through the door, yes, they work with the applicant. Staff always tries to make sure that they have the best application possible with as much information and as clear information to bring to the Board to make the application bullet-proof, because nothing gives him a bigger thrill than to actually help someone get approved. He does what he can to make the application as bullet proof as possible, but there is a process to go through doing that. In this particular case, that process was not followed because, unfortunately, in the applicant's eyes, they had a time limit. They needed to get this in before the regulation changed. So, unfortunately, when the Department has to take an incomplete application, things are not done. If someone is not going to follow the process, he is not going to help them make it worse. The reports have been in the file since the last public hearing. They were distributed to the Board. There is an updated one today that was based on the site plan that the Applicant delivered on Friday. So, for the last two weeks the last report has been sitting in the file for anyone to come in and go through the file and fine out what Staff thought about the project.

**Mrs. Harrigan:** Stated when she had followed up on Mr. Crabtree's prior activity with the Grillos in terms of doing some sort of looking at the existing site and seeing what was not in compliance, she was looking at an 11-acre site at that point and trying to get that portion of the site in compliance. The application in front of the Board is for the entire site. This is different than then. The Board is looking at the entire parcel. It is not split any more between a golf range operation and the Grillos. They want to occupy the entire site with their activities. That is the application before the Board.

**Mme. Chair:** Stated again that it does not fulfill what they are asking for, which is an Amendment to a Special Permit. It is way beyond an Amendment to a Special Permit.

Declared the Public Hearing closed. Board will begin discussion of this matter at its next meeting on August 18<sup>th</sup>.

**F. PUBLIC HEARING CLOSED 7/7/09; exp. 9/17/09**

4. **314 BRIDGEPORT AVENUE (ZONE CDD-2 AND R-7.5)** Petition of Brian Lema, Esq. for a Special Exception and Site Plan Review to construct a 10-unit multi-family residential building with off-street parking on Map 24, Block 381, Parcel 1, of which D.A. Black, Inc. is the owner.

**Mrs. Patterson:** Saw the property and believes it is too dense for the ten units proposed. Off-street parking is good. Would like to see some affordable housing units, also.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Ms. Shaw:** Not as concerned about density as she is about the affordable housing issue, which is a component in the POCD. Would like to ask that 10% of the project be used for affordable housing.

**Mme. Chair:** Does not think the area is too dense. Likes the plan. Has an open area in the back. Would also like to see two or three units be under affordable housing. All other issues were addressed.

**Mr. Goodrich:** Reviewed parking adequacy; handicapped spaces; the pedway; compared the number of bedrooms in this project to other new construction in the vicinity.

**Mr. Liddy to Staff:** Can the Board force developers to create affordable housing?

**Mr. Sulkis:** Under a Special Exception, the Board is under no obligation to approve the application. It can require conditions of approval. Based on the Plan of Conservation and Development and the need for affordable housing, the Board can make that a condition of approval.

**Mr. Vetter:** Thinks this is one of the best designed projects the Board has seen. Not in favor of requiring affordable or low income housing. The Board has had good dialog with the applicant and all the Board's questions were answered.

**Mr. Goodrich:** Under the current regulations, permitted use, 3.17.19, mixed use building, they would require two waivers. One being no residential on the first floor; the other being 6-bedrooms max per building. They are asking for 10. If they did it under the Special Uses, 3.17.24, that is where the affordable is, that would be a waiver. It also requires 2000 SF of lot per unit and a lot size of 15,560 SF, only 7 units would be allowed, not 10. Max building coverage, 25%. They are proposing 30%. Minimum unit of 800 SF. They are proposing 765 SF. That is if it is compared to the regulations and pick and choose what they want out of there.

**Mme. Chair:** Asked if Mr. Goodrich was taking a position.

**Mr. Goodrich:** Applying either of these housing units to this application, then it is too dense.

**Ms. Rose:** Her opinion is it is too dense of an application. Would prefer to see eight units on the property. There is a lot of housing in that district at that time. There is an over abundance of rentals at this point. Would support eight units.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Ms. Shaw:** Made a motion to approve 314 Bridgeport Avenue, the petition of Brian Lema for a Special Exception and Site Plan Review to construct a 10-unit multi-family residential building with off-street parking as described in the above-caption.

**Mr. Liddy:** Second.

**Ms. Shaw:** Amended her motion to include one unit of affording housing.

**Mme. Chair:** Seconded the amended motion.

**Mr. Vetter:** Restated his opinion that he did not think it was appropriate to ask the applicant to change their application at this time. He had asked the applicant previously about making this change and for financial reasons or otherwise they could not do that, it would not be appropriate to change their application at this stage of the process.

**Mme. Chair:** Mr. Sulkis said the Board can put such requirements on a Special Exception application.

**Ms. Shaw:** In the Plan of Conservation and Development it points out that Milford needs rentals for housing for small and elderly householders and families of limited income. This would be for only one unit and it is a great location.

**Mme. Chair:** The housing stock in our city for affordable housing is 10%. Adding the one unit would keep the city static in this regard. No affordable housing in the complex would bring the city down to 6.6%.

A vote was taken on the amendment to add one unit of affordable housing: Four members voted in favor of the amendment. Five members voted against the amendment. The amendment to the motion was defeated.

A vote was taken to approve the application: Six members voted in favor of approval; Ms. Rose, Ms. Patterson and Mr. Goodrich voted against the motion.

[A recess was taken from 9:07 p.m. to 9:15 p.m.]

**PUBLIC HEARING CLOSED 7/21/09; exp. 10/30/09**

5. **26 HIGGINS DRIVE (ZONE ID)** Petition of Leo Carroll, Esq. for a Special Exception and Site Plan Review to establish a dog day care center on Map 80, Block 810, Parcel 15D, of which D'Amato Investments, LLC is the owner.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Ferrante:** Not present at the last meeting but watched the meeting on DVD. Mentioned that Mr. D'Amato had called him, but no specifics of the matter were discussed, and he did not view this as a problem in his voting on the application.

**Mme. Chair:** Also stated she was not at the meeting but watched it on DVD, as did Mr. Bender.

**Ms. Rose:** Made a motion to approve the application of 26 Higgins Drive for a doggie daycare with the following conditions:

- 1) Applicant to install metal guard rail along property line in addition to vinyl fence where Dog Run abuts neighboring parking lot.
- 2) Applicant to submit specifications to demonstrate bollard design and guard rail design and installation to stop vehicles from entering Dog Run.
- 3) Applicant to submit Demolition and Excavation Plan to create gravel Dog Run and to prove permeability.
- 4) Applicant to submit full Soil Erosion and Sediment Control Plan.
- 5) Applicant to submit architectural and construction drawings for the installation of interior sound proofing to mitigate dog barking for neighbors. The Applicant shall install these sound proofing measures.
- 6) Applicant to submit conforming Photometric Survey and Lighting Plan.
- 7) Applicant to submit updated A-2 survey before issuance of Zoning Permit as well as an As-Built survey after project completion.
- 8) Use is limited to Dog Daycare and boarding only.
- 9) Applicant to provide Drainage Plan showing all liquid waste and run-off from this property remains on the property.
- 10) Applicant to provide pre-construction topographic survey and post-construction topographic survey.
- 11) All run-off must remain on-site. Applicant to demonstrate functional on-site drainage plan and visibility of on-site dry wells.
- 12) Applicant to provide detail Landscape Plan.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

- 13) Applicant to submit Waste Disposal Plan with new Floor Plan. Exterior waste storage is prohibited since there is minimal parking.
- 14) All conditions are to be designed, installed, and completed to the satisfaction of the City Planner.

**Mrs. Patterson:** Second.

**Ms. Shaw:** It seems like too much. All we should be asking for is a site plan. Staff has asked for a site plan that would show the driveway that is 20 feet where 24 feet is required. One of the biggest questions about drop off and pickup is not dealt with. Would not support the motion to approve.

**Mme. Chair:** Stated she, too, would not support the motion to approve. Concerned about the factual information as to the number of dogs they would have and whether they would be brought in a van or by car; parking is inadequate. Does not understand why the second time around the applicant did not do what she was aware she was required to do. Very concerned about the health, safety and welfare of the neighbors.

**Mr. Bender:** Definitely sees deficiencies in the application. The question has come before the Board before as to whether it is trying to have a small business do an awful lot in the way of providing drawings, architecturals, etc. Agreed the dogs have to be well maintained. Is the Board asking a small business to jump through big hoops to establish a start-up business?

**Mme. Chair:** The Board is asking for the regulations to be followed.

**Mr. Vetter:** Agrees with everyone's comments. He has the same feelings as Mr. Bender for what would be a great business in Milford, but the overriding concerns around the safety of the driveway, parking and drop off flow are the same concerns the Board had a year ago and they have not been eased at this time.

**Mr. Liddy:** The application is for the same property as last year. With so many vacant properties available in the City, why have these not been explored?

**Mme. Chair:** Has asked the same question. Not up to Staff to ask that, though.

**Mr. Ferrante:** Had a general comment. After having viewed the meeting, it was obvious the Board was getting too much cross-talk. Very often the Board hears applicants talk about starting a great business and how good it will be for economic development, when that is not relevant. The Board cannot deny things that have an adverse economic impact on the City and it cannot grant things because they will have a good economic impact. The Board continually suffers the applicant saying those things.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Stated he was particularly offended by the Mayor coming in here and telling the Board "I ask you in the name of economic development to grant this". He knows the function of this board and he was personally offended by his imploring the Board, regardless of the regulations. Having said that, Mr. Ferrante stated he would approve the application, because the Board cannot deny it for economic reasons, but he should not have asked to grant it for economic reasons.

He understands the application is deficient in many respects, however, the area in which this is located is all Mr. D'Amato's property and if his other tenants are going to put up with it, then give it a try. Some of the things that Mr. Sulkis has listed should be done, however, there are some duplications. He would approve the application with some modifications.

**Mme. Chair:** Agreed with Mr. Ferrante about the issues of economic profitability and whether it helps the City or not and the Board cannot base its decisions on that.

**Mr. Bender:** Stated the meeting was a public hearing and he had no problem if the Mayor wanted to say something. The Board had no problem with him saying something about 990 Naugatuck, which he was against. No one complained about that.

**Mr. Goodrich:** Twenty-four feet is required for two-way traffic and they propose 20-feet. It is an existing building with existing property lines. The only thing that you can do is turn the building down. Next door is a stone storage company. Asked if people should be driving around granite slabs, which is not a safe situation. A fatal accident occurred a few years ago when the slabs fell over. No matter what goes in this building, the 20-foot driveway for two-way traffic will have to be.

Detail of the bollards will be taken care of by the building department. They should be shown on the plans. Agrees with the guard rails to protect the dogs, but does not think soundproofing is necessary. Thinks the stone business produces more noise than the dogs would. Thinks lighting would be exterior. Should know where lighting would be, but a photometric survey should not be necessary. Seems like 14 points of conditions is a lot for this application.

**Mme. Chair:** The Board has to make its decision not only on the present ownership, but the building and who knows what might happen in the future, as well as the business next door.

**Mr. Bender:** Made the following points:

1. Once the State gives licensing to a daycare and boarding facility, it automatically grants them grooming.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

2. Has a problem with condition No. 14, satisfaction of all conditions by the City Planner. That is subjective and would be a problem for the applicant.

3. It does not matter who the landlord is or if they own all or half the property. The Board has to look at this business regardless of who the landlord is.

**Mme. Chair:** She and Mr. Sulkis discussed this matter. That is why there is a denial and approval motion.

**Mr. Sulkis:** Said he was uncomfortable putting in condition 14, but there is no other choice. Either they submit some other application, or someone has to go through and figure out whether or not they have met all the previous 13 requirements.

**Ms. Shaw:** There is so much in the motion to approve. The Board is not going to get another shot at this, so it leaves only one person in the planning office to go through this. There may be other issues the Board may have missed in the midst of all the other deficiencies, and it would have already been approved. Playing fast and loose with this.

**Mr. Vetter:** To Mr. Goodrich's point. There is no back entrance to the facility. There is the narrow drive and people have to park in the back and need to walk through the narrow drive to get access to the building. In its current use there is a back door to be used. Appreciates the Mayor, as a citizen of Milford, offering his opinion like the rest of the public.

**Mr. Ferrante:** Said he did not mind the Mayor offering his opinion but to tell the Board that they should decide this based on illegal criteria is offensive to him.

**Mme. Chair:** Mr. Ferrante's point is well taken. Did not want to discuss the Mayor further. However, not sure the Mayor and other people in city politics understand all the details and workings of the Planning and Zoning Board.

**Mr. Ferrante:** Likes the idea of soundproofing, but there is no noise ordinance in the City. Does not know how this could be enforced.

**Mr. Sulkis:** This is a Special Exception.

**Ms. Rose:** Suggested taking a poll to see where everyone stands on this application and take each item one and a time to get the Board through this.

**Mr. Ferrante:** Suggested that Staff condense this.

**Mme. Chair:** There is a motion on the floor. Can make amendments. Otherwise, the Board can vote on the motion to approve with the stipulations.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Ferrante:** Moved to amend and remove condition No. 3.

**Mr. Goodrich:** Second.

**Mr. Sulkis:** It was stated at the public hearing that pea gravel was the best means of handling liquid waste from the dogs. Removing the asphalt in the current parking lot will not allow percolation. They need to provide an excavation plan and demolition plan to show what has been removed and what will be put in its place, in order to assure there will be the permeability that the applicant spoke of as being necessary.

**Mr. Ferrante:** Removed his amendment.

**Mr. Goodrich:** Removed his second.

**Mr. Ferrante:** Amend #11 as it is a duplicate of #9.

**Mr. Sulkis:** They are similar, but slightly different. One pertains to liquid waste from the dogs and the other pertains to rain runoff, which is all being contained on one site. Have to have plans for where all the runoff comes from and where it is going.

**Mr. Ferrante:** Withdrew his amendment.

**Mrs. Patterson:** Amendment to take out No. 5, soundproofing. There were letters from the neighbors stating they do not have a problem with it. Also, their offices were across the street. This is not required for any other dog care center. There could be a change in use and children could make as much noise.

**Mr. Liddy:** Second.

**Mr. Bender:** Does not hold to those letters. All the properties are owned by the same landlord. They have no idea of the noise that will be there. Agrees with the idea no other facility is held to the soundproofing, but not because of the letters from neighbors.

**Mme. Chair:** Thinks there should be soundproofing.

**Mr. Goodrich:** One tenant rents multiple buildings from the same landlord. If there is a sound problem it will be addressed by the landlord and the tenant who is paying more rent. Do not know if there is soundproofing at present between the buildings. Further soundproofing could be redundant.

**Mme. Chair:** The property could change hands by tenant or landlord in the future.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mrs. Patterson:** This could be a safety issue. Would rather not have soundproofing.

A vote was taken: Four members voted in favor of removing Condition #5. Five members voted against removing Condition #5. The amendment to the motion was defeated.

**Ms. Rose:** Amended her motion to include the removal of a Condition # 12, provide a detailed landscape plan.

**Mr. Ferrante:** Second.

**Mr. Sulkis:** That is there because they show some landscaping but do not say exactly what it is. In the Tree Commission's report they made suggestions as there was no landscaping plan. They would be consulted on this.

**Mr. Goodrich:** The Tree Commission, in its report, requested a second tree because of the frontage. Does not know if that is necessary in the industrial area.

**Ms. Rose:** Withdrew her amendment.

**Mr. Ferrante:** Withdrew his second.

**Mme. Chair:** Reviewed the main motion on the floor: To approve with 14 stipulations.

A vote was taken: Four members voted in favor. Five members voted against the motion. The motion was defeated.

**Mr. Vetter:** Made a motion to deny the application for the items detailed by Staff in the Motion to Deny for 26 Higgins Drive.

**Ms. Bender:** Second.

**Mr. Vetter:** The motion for denial is based on the following reasons:

- 1) Inadequate parking for the proposed use.
- 2) Inadequate Drop-off area.
- 3) Incomplete specifications for the following Site Plan changes:
  - a. Bollard Details
  - b. Drainage Details
  - c. Excavation or Parking area for Dog Run to prove permeability.
  - d.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

- 4) Lack of Soil Erosion and Sediment Control Plan.
- 5) Lack of guard rail separating parking area of Building 4 from Building 5.
- 6) Driveway is below the 24' wide necessary for 2-way traffic. At 20', the driveway does not adequately and safely allow for 2-way car traffic and pedestrian and dog traffic traveling to the front of the building.
- 7) Lack of Photometric survey and Lighting Plan.
- 8) Lack of an updated A-2 survey.
- 9) Lack of Landscape Plan Details.
- 10) Lack of Interior Construction/Rehabilitation Plan showing noise absorbing material to minimize dog barking for adjacent neighbors.
- 11) Lack of Garbage/Refuse Removal Plan.
- 12) Proposed non-industrial use is incompatible with this location and not in conformance with the Plan of Conservation and Development.

**Mr. Sulkis:** Corrected number 3c to read "Excavation of parking area" not "Excavation or parking area".

**Mr. Ferrante:** Moved to amend the motion to deny with the removal of number 12, because he believed the use is compatible with the location. Does not think use is the issue here. Thinks the issue is what impacts the use has, i.e., traffic, noise, photometrics, etc., which is lacking in the application.

**Mr. Goodrich:** Second.

**Mr. Liddy:** Asked Staff why he thought the use was not compatible with the area.

**Mr. Sulkis:** It is an industrial area. This is not an application for industrial use. A Special Exception application is all about the use.

**Mr. Ferrante:** Commented it is the wrong location because of all the problems the Board has seen in the parking, driveway, etc., but the use in the industrial zone is quite good.

**Mme. Chair:** Agreed with Mr. Ferrante. Other applications have been allowed in the industrial zone because they made good sense of the land use. Is in favor of removing this reason.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Mr. Liddy:** A paintball business and a dance studio were permitted in the industrial zone by the Board previously.

**Mr. Ferrante:** Stated Mr. Carroll's remarks about allowing uses were correct, but he confused that with the Board's investigation into the impacts of a particular use. Stands by his amendment to remove reason #12.

A vote was taken: All members voted in favor. Number 12 was removed.

**Mr. Goodrich:** Made an amendment to the motion to remove #6 concerning the size of the driveway.

There was no second to the amendment. The amendment did not carry.

**Mme. Chair:** The main motion is on the floor with 11 reasons to deny the application.

**Ms. Rose:** Cannot support the motion to deny the applicant.

**Mme. Chair:** This process is necessary.

A vote was taken: Five members voted to deny the application. Four members voted opposed to denial of the application. The motion to deny was passed.

**G. PROPOSED REGULATION CHANGES**

**Mme. Chair:** Asked if the proposed regulation changes were scheduled for the September.

**Mr. Sulkis:** Stated perhaps. Will let the Board know at the next meeting.

**H. LIAISON REPORTS – None.**

**I. APPROVAL OF MINUTES – (7/21/09)**

**Mr. Bender:** Made a motion to approve.

**Mrs. Patterson:** Second.

**Mr. Goodrich:** On page 215 re truck weight and volume discussion. Thought this item should be more detailed.

**Mr. Sulkis:** The minutes do not need to be amended. If there is to be a lawsuit a verbatim transcript of the meetings will be submitted.

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

**Ms. Harrigan:** There was one change in the motion made by Ms. Shaw which was corrected at the hearing that was not incorporated in the minutes. That is, Item No. 2 of the motion to deny, "A Special Permit is required", was corrected that it was a "Special Exception Permit is required".

All members voted in favor of approving the minutes with the correction noted.

**J. CHAIR'S REPORT**

**Mme. Chair:** Commended all the members for their endurance at the last meeting. Thanked Dennis as well.

**K. STAFF REPORT**

**Mr. Sulkis:** Had handed out the Activity Report of the Zoning Enforcement Officer. This is the quarterly filing done at the Board's request.

**Mr. Bender:** The Board had previously requested the disposition of these violations and it was indicated this information would be received.

**Mr. Sulkis:** Indicated that if the Board members had the last report and the items are not on the current report, then the issues have been resolved, although in theory, they could still be open. He will speak to Mrs. Stock to see if an additional column can be added to note if the issues are still open or if they are resolved.

**Mme. Chair:** Stated that obtaining that information would be helpful.

**Mr. Bender:** Made a motion to adjourn.

**Mr. Liddy:** Second.

The meeting adjourned at 10:04 p.m. The next meeting will be held on August 18, 2009.

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Phyllis Leggett, Board Clerk  
(Transcribed but not in attendance)

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY, AUGUST 4, 2009; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**