

**MINUTES OF THE PLANNING & ZONING BOARD MEETING  
HELD TUESDAY, AUGUST 17, 2010; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the August 17, 2010 meeting of the Planning and Zoning Board at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Edward Mead, Mark Bender, Kathy Patterson, Robert Dickman, Kevin Liddy, Vice-Chairman, Kim Rose, Janet Golden, Victor Ferrante, Susan Shaw, Chair., Greg Vetter (7:31 pm)

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

**Mme. Chair:** Reminded those in the audience tonight's meeting and application was not for a public hearing and only the applicant's representatives would be able to speak.

**C. NEW BUSINESS**

1. **325 ORONOQUE ROAD** – Petition of Raymond A. Macaluso for a Minor Amendment to a Special Permit and Site Plan Review approval to construct a 3,410 SF addition to add four multi-purpose rooms to Christ the Redeemer Church on Map 74, Block 925, Parcels 6 and 6A, of which Christ the Redeemer Church is the owner.

**Raymond Macaluso, President and Principal of Westcott and Mapes, Inc., 142 Temple Street, New Haven.** Also present Bill Silver of Silver Petrucelli Architects and Father Cyric is the pastor for Christ the Redeemer Church.

Christ the Redeemer Church is located at 325 Oronoque Road. It consists of approximately twelve acres of property. Showed the location of the church and rectory on a display. Proposing a 3,410 SF addition for four multi-purpose rooms on the southwest corner. All the transmittals from the City departments were received back with approval. The Tree Commission has not responded. The present curb cuts will be maintained. Referred to Sheet C-1. This is a special use in an R-30 residential zone and the church has a right to build there under Sec. 3.18.4. The proposed addition meets all the requirements of that regulation which Mr. Macaluso cited. The house that was on the property in the 1960's before the church was built was turned into a rectory as an accessory use and the setbacks comply.

Some of the parking spaces will be removed. He showed on the display the existing parking on the south side that will be removed but the 28-foot width for emergency vehicles will be maintained. He showed the parking spaces that will

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remain, as well as the walkway for the pastor and parishoners. 105 parking spaces are required; 125 parking spaces will be provided. Also providing the required five handicapped spaces.

The impervious area is being reduced. The bituminous pavement is being removed and a landscaping plan has been provided. The existing impervious area, including the walkways is 79,800 SF and 79,710 SF is being proposed.

The proposed addition is four four multi-purpose rooms. The church was built in the last 1960s and it is divided into two main areas; one is the church and one is the hall. The hall is used for various meetings. It is a large space and the parish council has decided to put the four multi-purpose rooms in for flexibility to have other meetings that will be more conducive for the parishoners and also for the assembly. The addition will also allow handicapped accessible restrooms and an accessible lift will be provided.

Mr. Macaluso reiterated the curb cuts are being maintained; not exceeding the parking limits; reducing the impervious and putting in landscape plantings abd everything meets the regulations. Requested approval of the application tonight if the Board had no concerns.

**Bill Silver, Architect, President Silver Petrucelli Architects and Engineers, 3190 Whitney Avenue, Hamden.** Resides at 55 Governors Avenue in Milford. The architecture is fairly simple. Want to pick up on the character and style not only of the exterior, but the footprint of the building. He showed on the display what the buildings would look like. Two small subcorridors were developed that allow independent access from the exterior as well as the interior of the main parish hall for flexibility. Two restrooms are located on the southeast side. Mechanical and storage spaces are in between. There is a movable dividing wall to make one space possible, while on the other side there is a fixed partition between the two spaces. Each of the smaller spaces are 430 SF. The larger spaces on the west side are 536 SF each, which are not large.

Wanted to honor the design from the 1966 design of the original building. It is unique in its architecture for Milford, much less for the west side of Milford. The double folded plated on the main sanctuary and parish hall are mimicked in the addition where the meeting rooms are. The windows were reproduced from the original, as was the pitch and coloration. The addition is heavy masonry and steel construction, just like the original building.

Mr. Macaluso stated the presentation was concluded and asked for questions.

**Mme. Chair:** Asked Mr. Sulkis for his comments.

**Mr. Sulkis:** Nothing to add. The applicants did a thorough job of explaining the minor addition to the church.

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**Mr. Liddy:** Asked about the parking spaces for use by the multi purpose rooms.

**Mr. Silver:** The building code looks at occupancy, especially for fire safety code. The multi purpose rooms will not be used at the same time that church services will be held.

**Ms. Rose:** Asked what is the minor amendment to this application.

**Mr. Macaluso:** He met with the City Planner who said this was a minor amendment to a special permit and he had to defer to Mr. Sulkis.

**Mr. Sulkis:** The use is by Special Permit and there is a change in the site plan and an increase in that Special Permit use. That is what makes it a minor amendment.

**Mrs. Golden:** Moved to approve the application of a Minor Amendment to a Special Permit and Site Plan Review for a 3,410 SF addition at Christ the Redeemer Church, as presented.

**Mrs. Patterson:** Second.

**Mme. Chair:** Asked if the Board was willing to approve this tonight. The typical practice is to hold it over to the next meeting. Asked if there was further discussion.

**Mr. Liddy:** Asked Mr. Macaluso about the article that appeared in the Milford Mirror and believes the Board is being pressured to approve the application tonight because of the extra costs involved in bringing this application before the Board. Asked what the extra cost was to come before the Board.

**Mme. Chair:** There is a motion on the floor. Asked to have the motion removed in order to have further discussion.

**Mr. Bender:** With regard to the motion, there are no issues. It should be approved and move on.

**Mme. Chair:** Asked to take the motion off so that the commission could ask their questions. Once the questions have been satisfied, a motion will be entertained.

**Ms. Rose:** Remove the motion to approve.

**Mr. Liddy:** Second.

**Mr. Dickman:** Asked if the Board should vote on the motion to remove the motion.

**Mr. Vetter:** Stated the protocol was to withdraw the original motion and second.

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**Mrs. Patterson:** Withdrew her second of the motion to approve in order to allow discussion of the application.

**Mrs. Golden:** Withdrew her motion to approve.

**Mr. Liddy:** Feels the Board is being pressured to make a decision on this application. Asked what costs were involved to create the situation.

**Mr. Macaluso:** Responded he had nothing to do with the article in the Milford Mirror. He met with Mr. Sulkis six weeks ago. Requested administrative sign off as a professional to Mr. Sulkis to check with the Chair. He did and stated it was necessary to go through the transmittal process. He [Mr. Macaluso] had nothing to do with the article and he and Mr. Silver are doing their job. In the past he has requested Board approval the same night of presentation which the Board has granted. As far as costs are concerned, his and Mr. Silver's costs go to Christ the Redeemer. From his standpoint everything was done within the regulations and the professional engineering and architectural services.

**Mme. Chair:** Wants this to be just about the application, not any other issue and she apologized for this.

**Mr. Sulkis:** The materials that were produced this evening for you [the Board], whether or not they come before this board or if there was some other method, the same materials would need to be produced for them ultimately to get their permits from both us and the Building Department. So that is just letting you know in terms of the issue of what the cost may be. It is still the same materials, whether it is in front of you or when they go to get their building permits or zoning permit. If that is at all helpful.

**Mr. Bender:** Does not feel pressured. Everything complies. The Board has made approvals the same night numerous times. Numerous times he questions why the Board even sees these things.

**Mme. Chair:** Agreed.

**Mrs. Golden:** Stated she did not want a media circus created over this and to have Planning and Zoning be put in the middle. Remade her motion as follows: To approve the Petition of Raymond A. Macaluso for a Minor Amendment to a Special Permit and Site Plan Review approval to construct a 3,410 SF addition to add four multi-purpose rooms to Christ the Redeemer Church on Map 74, Block 925, Parcels 6 and 6A, of which Christ the Redeemer Church is the owner.

**Mrs. Patterson:** Second.

All members voted in favor. The motion was approved unanimously.

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2. **41 DEERFIELD AVENUE** – Petition of John Wicko, Architect for Coastal Area Management Site Plan Review approval to construct a single-family residence on Map 28, Block 577, Parcel 1, of which Donald and Christine Montano are the owners.

**John Wicko, Architect, 50 Broad Street, Milford.** The CAM application consists of an existing house that will be raised in that the first floor elevation will be lifted to meet the requirement of the flood zone that it is in, which is the AE 12. There will be a partial renovation and addition to the rear portion of the house. This work is considered as substantial improvement. The site is 3,600 SF. It is located at the end of Deerfield Avenue and Field Court on a corner lot. It runs parallel with the beach but is on the other side of Field Court so it is not on the water and has a row of houses and a road in between it and the water. The elevation will be raised to a finished floor level of 15.25 and 14.25.

Projection variances were requested and granted from the ZBA which relate to the front yard with a stoop that exists that was nonconforming and also the proximity to the existing house to the north property line. As a result of raising the structure, an entry had to be extended in order to accommodate a stair of a length that would let the building code egress a chance to exit the building in a safe manor and still on the site. Those were granted but they are minor in nature being the yard projections.

The CAM report was distributed to the City departments as well as the DEP, which saw the application as consistent with the policies and had no comments for the Board. They did ask for clarification of the flood ventilation calculation for specificity, which was complied with. They asked that four conditions be incorporated into the motion and they are in the report.

Mr. Wicko explained the site plan, elevations, design and materials to be used via a color coded display.

The CAM report has all the normal impacts and responses to its location in the developed area of Milford. The house is already there and the applicants are not asking for anything more than is what is already there. DEP saw it was consistent with coastal area management policies.

**Ms. Harrigan:** This property and some other properties in the City were awarded grants to raise the structure. These grants will expire at the end of the month. Asked if the Board could vote on this project tonight.

**Mr. Liddy:** Stated the applicant has been granted three variances. Asked what the hardships were.

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**Ms. Harrigan:** Explained each circumstance of the variance approval.

**Mr. Liddy:** Asked what a Cultec-Recharger was and was it hooked into the sewer system.

**Mr. Wicko:** It is an independent storm detention system. He explained how it will work at the site.

**Mr. Vetter:** Asked for clarification concerning the footprint of the house in that the grant money was to maintain the present footprint, but the addition will be expanding the footprint.

**Ms. Harrigan:** That is correct.

**Mr. Ferrante:** Mr. Liddy asked what the hardships were.

**Ms. Harrigan:** This is a 30-foot wide lot. The house is existing at 20-feet wide. They were not asking to make it any wider, just to build on the existing footprint, which is only an approximately 20-foot wide footprint.

**Mr. Wicko:** Explained that this application was not requesting waivers. This was the same site plan that was used for ZBA. The waiver requested was granted as a variance item from the ZBA.

**Mr. Dickman:** Clarified his understanding of the ZBA hardship. The FEMA grants are available for this house but only if they build within the original footprint.

**Ms. Harrigan:** Stated that was correct, but the ZBA's finding was that they are not increasing the footprint in one direction or another and this is only a 30-foot wide lot where 50-feet is required within the zone.

**Mr. Sulkis:** The ZBA hardship was the size of the lot. It was a narrow lot. That was the hardship that was brought to ZBA.

**Mr. Bender:** There are no waivers asked of this board. The application has been approved by the ZBA. It has been clarified that the waiver shown on the plan does not apply to this application.

**Mr. Wicko:** The rest of the house conforms. All the primary setbacks conform with the exception of that one corner. Approval is of a CAM application where the policies are consistent with those designated by DEP.

**Ms. Harrigan:** Gave this application as an example of the new flood hazard regulations being presented to the Board and how it relates to the property's flood zone.

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**Mr. Ferrante:** Asked about the attic space and questioned whether it was or could be habitable.

**Mr. Wicko:** Explained the area above the second floor is unoccupied roof. There is no living or habitable area there.

**Mr. Ferrante:** Thought the board should see a plan for that space.

**Mr. Sulkis:** Asked if the flat area, not the cathedral area, is so low that it does not meet the requirements in the regulations for habitable space.

**Mr. Wicko:** That is correct. It does not meet State building code requirements for the height either to consider it habitable space.

**Mme. Chair:** Everything that is required has been presented. Saw no need to ask for plans for the "attic", since it cannot be considered as habitable space.

**Mrs. Rose:** Due to the time constraints of the grant and the fact this is a simple CAM report, moved to approve the CAM application as presented.

**Mrs. Golden:** Second.

**Mr. Ferrante:** Asked that the Board be shown the interior design of the attic.

**Mr. Sulkis:** Reminded the board had this not been a CAM application due to its proximity to the water, they would not be seeing this application at all. The Board appears involved in discussing the house's design, which meets all the requirements. A majority of the discussion has not focused on what is the focus of the CAM, which is, is there an impact to the environment based on its location and the answer this evening is no.

**Mr. Vetter:** The Board has seen a lot of plans like these. The last few that came in had the top floors diagramed and it was explained what was on those floors. There has been a lot of discussion as to whether there were three floors or four. Thinks this is important and he would like to see what is in that story.

**Mrs. Patterson:** As much as the Board is concerned and has had issues with the way the houses are being built, especially near the water, the concern before the Board tonight has nothing to do with the house. When the Board gets new construction and they get to look at the plans that they do think about these things, but it is best to move forward at this time.

**Mr. Liddy:** Inquired if at some point the roof area could be converted into living space.

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**Mr. Wicko:** The roof would have to be raised and then the building height would be too tall.

**Ms. Harrigan:** It would not get a permit.

Eight members voted in favor. Messrs. Ferrante and Vetter voted against the motion. Motion approved.

**D. TABLED ITEM**

**2. WHEELERS FARMS AND WOLF HARBOR ROADS (ZONE R-A)**

Request by AvalonBay Communities, Inc. for a five-year extension of a Special Permit/Site Plan for 160 Units of Age-Restricted Housing on Map 105, Block 914, Parcel 19, approved on January 17, 2006, of which AvalonBay Communities, Inc. or AvalonBay Milford II Development, Inc. is the owner.

**Mr. Sulkis:** Legal is still researching the matter, but there is no rush.

**E. PROPOSED REGULATION CHANGES – (Flood Hazard Regulations)**

**Ms. Harrigan:** Explained the need and the process for adopting these regulations which is mandated by the federal government for the City to continue to participate in the National Flood Insurance Program that allows for the City's residents to obtain flood insurance. This was done as part of the map modernization project where they updated the City's flood maps, which is also part of the approval that needs to meet the time line as well as the regulations. Everything has to be adopted by December 17<sup>th</sup>. That requires both the maps and the regulations be adopted by the November 16<sup>th</sup> meeting. That will give enough time to notice it in the newspaper and allow for the appeal period.

**Mme. Chair:** Ms. Harrigan brought maps for the Board's review. Thought it would be in the best service to the Board to take a ten minute break to review the maps.

**Ms. Harrigan:** Adoption of the regulations is being done by county, in cycles, in the State. Once the board accepts the regulations they will go to the necessary agencies and then to public hearing and ultimately for approval by the Board.

**Mr. Liddy:** Asked if Ms. Harrigan had any comment on the email he had sent her earlier this week regarding insurance.

**Mme. Chair:** Take a break first and then discussion.

**Ms. Harrigan:** This was a map modernization project. They recreated the maps in a digital format. They expanded the number of maps and the scale is more



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amenable and clearer to read. For the most part the flood zone locations have not been located, but she has seen circumstances where there are changed. Also, they are overlaid on top of aerial photography so that you can get a more visual reference point for where structures are actually located. The other thing is that they updated the projection from NGVD 1929 to North American Vertical Datum of 1988. So these have been an updating in terms of the vertical datum and also an updating in terms of modernizing the format and the number of maps. The Board cannot comment on where the flood line zones are located.

**[A break was taken at 8:32 p.m. in order for the Board to review the new flood maps. The Board reconvened at 8:47 pm]**

**Mme. Chair:** Suggested Ms. Harrigan review some of the changes for the Board.

**Mrs. Harrigan:** Gave an overview of the changes. Adding interpretation language; what happens when a small portion of your structure hits a flood zone? You're in that flood zone. What happens if your structure is in two flood zones? You have to adhere to the highest flood zone. Those were two interpretations where it was brought to the state to ask what is done. They have provided the language to add to the flood hazard regulations.

The biggest change would be in the definitions which are extensive in terms of the recommendations that were made. The way the regulations used to interpret substantial improvement was based upon an area calculation of the space. After conferring with the Building Department it would be determined how much of the square footage has to be gutted and a conclusion would be drawn as to what they understood to be substantial improvement. The federal government is requiring that for the purposes of flood hazard determination, that is no longer an area for interpretation, it is strictly based on the market value of a structure. She reviewed this with the City assessor, Dan Thomas, and he recommended that the assessed value of the structure be used. The difference for homeowners is that they used to be able to figure out a way to get it just at that 49%, but you hit the value much quicker, which is what the federal government wants. They want you to retrofit structures so you eliminate some of the risk by building out of the flood hazard area. In this circumstance that excludes land value from the determination. If your property is worth \$360,000 and you exclude the land cost for that, maybe the structure is worth \$150,000. As the board knows, a kitchen remodel can be \$70,000. It really changes how you hit that substantial improvement mark and it makes it very quick.

It was also suggested that a time frame be placed on that substantial improvement interpretation and the State DEP, which was the coordinating agency that reviewed the city's regulations, they recommended that ten years be instituted. That seemed like something most municipalities were doing.

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However, that time frame could be shortened. The City could make it five years. But that could allow someone to do a substantial addition in a five year phase and then do it in another five years and they don't ever hit that substantial improvement.

The other thing added was some specific engineering analysis that has to be done for flood zone properties and that has to do with flood storage on site. They added some additional definitions for what constitutes finished living space.

This covers what are the most integral parts of what was required to institute. There were a few optional things, such as, the issue of parking below the enclosed first level that was required to be the elevated flood area (Section 5.8.12.5), which referred to the 130 Merwin Avenue application heard recently.

**Mr. Liddy:** How often do these regulations need to be reviewed?

**Mrs. Harrigan:** Only as required by the federal government.

**Mr. Liddy:** Read the question he had posed to Ms. Harrigan via email in the record:

“From an accountant’s viewpoint, subsidized flood insurance By the federal government causes a moral hazard dilemma where people continue to build in flood prone areas knowing that the federal government, i.e. taxpayer, will continue to reimburse them to rebuild their house on the same spot if it becomes damaged by flood, so it is a continual process over and over and over again. Is there any way we can stop this insanity where we are allowing them to rebuild in the same spot and have it washed out by floods again.”

He said he had read where some states are not allowing flood insurance so that would force people to move their homes back from the beach so they are not constantly washed onto the ocean. If the Board does not approve this what happens? Is there anything the Board can do?

**Ms. Harrigan:** If the regulations were not approved the city would be kicked out of the National Flood Insurance Program, so everyone who has flood insurance now would not be entitled to flood insurance, so in some cases that would actually affect their ability to get a mortgage in the city of Milford, because most mortgage companies are the agencies that require flood insurance. You cannot get a mortgage in Milford if you are in an identified flood plain without also obtaining flood insurance. So all the coastal homes could only be paid for in cash, basically.

**Mme. Chair:** Asked how many homes are within the flood zone.

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**Ms. Harrigan:** Anticipated this question would be asked. Asked the GIS specialist and she analyzed based on layers. The number of tax parcels within the flood zone, which would include condominiums and tax entities within the flood zone is 7,397. There are condo projects along the beach with 200 units, but there is only one property. The number of actual parcels within the flood zone is closer to 6,800 parcels within the flood zone and the actual number of structures within a flood zone is around 4,100 +/- . That is a roundabout number because it might be that there are two taxable parcels but it is only one home on that parcel.

**Mr. Liddy:** Are there other insurance companies besides the federal government?

**Ms. Harrigan:** All flood insurance is issued by private insurance companies but they are backed by the federal government, so those private insurance companies would not offer that flood insurance if they did not have federal backing, as she understands it.

**Mme. Chair:** In part, the regulations that are being adopted are making it so that there is not substantial loss. In reading through the regulations a lot of it is to ensure that the houses are fastened properly to the foundations to limit any damage or property and all through these regulations comments to ensure the least amount of damage but also harm to the safety and welfare of the community.

Asked if jetties are the responsibility of the property owners for repair.

**Ms. Harrigan:** They are mostly done by the State of Connecticut because they have jurisdiction below the highest high tide line. As seen on surveys for coastal site plan applications that come before the board, when someone has a waterfront property, their property is usually to the mean high water. However, there is an overlapping jurisdiction so the city has jurisdiction over the private property from whatever the street is to mean high water, but there is an overlapping jurisdiction where the state has the ability to regulate up to the highest high tide line. So, for the most part, jetties and other waterward things like docks, the DEP issues their permit first and sometimes almost exclusively if there is no portion of that structure that is above the mean high water mark. If a dock or pier is attached to a bulkhead, the DEP will issue its permit exclusively because the city has no jurisdiction. For those items, i.e. piers, especially along the Housatonic where it then connects into private property above mean high water, the city also has jurisdiction and a Special Permit has to be issued for those types of items.

**Mme. Chair:** In the definition portion with regard to variances, the term "unnecessary hardship" is used when applying for a variance. She questioned her understanding of going before the ZBA for a hardship.

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**Ms. Harrigan:** That is the language that was given to Planning and Zoning.

**Mme. Chair:** The showing of hardship should be at a higher standard, one would think.

**Ms. Harrigan:** Planning and Zoning has had very few variance applications from the flood hazard regulations, one of which was for property down on Milford Point. In the flood hazard regulations it requires that you tie into sewer. However, those properties below Milford Point cannot tie into sewer because the sewer line would be elevated out of the ground if they continue to pass Audubon, so that would be an unnecessary hardship. That was one of the only variances that the ZBA had reviewed in her time with the city. The other variance that the ZBA reviewed was for a very small entry addition to an existing house that had otherwise not met the substantial improvement threshold. They would have had to do so much elevation work for this small portion of the addition that was being done, the Zoning Board of Appeals found there was hardship with that.

In the variance section, the homeowner does that and Planning and Zoning issues a letter saying the work is being done at their own risk in terms of what those insurance ramifications mean.

**Mme. Chair:** Stated the major issue to her is the value calculations. As Ms. Harrigan pointed out in her memo, this is different from the way 50% substantial improvement is calculated now, which is based on area. It was suggested in Ms. Harrigan's memo that this was something the board could consider using on other improvements as well.

**Ms. Harrigan:** Responded the way it was recommended, in terms of language, was to completely strike out "substantial improvement" the way that it is being utilized. Tom Raucci, the chief building official, said please use "market value". That is the way the building code would prefer that it be done as well, just for single family homes that are outside the flood zone and it makes sense to be consistent, therefore, she did not separate the two types of analysis for substantial improvement for non flood zone properties and substantial improvement for flood zone properties.

A time line for the substantial improvement provision was discussed. Ms. Harrigan said the City did not have to institute a time line. It could be stated "indefinitely".

The Board will review the proposed flood regulations.

**F. LIAISON REPORTS - None**

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**G. APPROVAL OF MINUTES – (8/3/10)**

**Mr. Vetter:** Moved to approve.

**Mr. Liddy:** Second.

All members voted in favor of approving the minutes.

**H. CHAIR’S REPORT – None.**

**I. STAFF REPORT**

**Mr. Sulkis:** There is a new director of the DPLU, Jocelyn Matthiesen. She is looking forward to meeting the board and will be present at the September 7<sup>th</sup> meeting.

**Mr. Vetter:** Moved to adjourn the meeting.

**Mr. Liddy:** Second.

All members voted to adjourn the meeting at 9:10 p.m.

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Phyllis Leggett, Board Clerk