

**UNAPPROVED MINUTES FOR THE MEETING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, SEPTEMBER 1, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the September 1, 2009 meeting of the Planning and Zoning Board at 7:33 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Mark Bender, Janet Golden, Kathy Patterson, Susan Shaw, Greg Vetter, Victor Ferrante, Jeanne Cervin, Chair. Kevin Liddy (7:40)

Not Present: Frank Goodrich, Kim Rose

Staff: David Sulkis, City Planner; Phyllis Leggett, Board Clerk

C. PUBLIC HEARING CLOSED 8/18/09; EXP. 10/22/09

1. **1651 BOSTON POST ROAD (ZONE CDD-5)** Petition of Vanasse Hangen Brustlin, Inc. for a Special Exception and Site Plan Review to construct a bank building on Map 100, Block 805, Parcel 11A, of which Olympia Properties, LLC is the owner.

Mr. Bender: Reviewed the Traffic Study. Compared this site with People's Bank and Milford MarketPlace. Learned that the MarketPlace has a 39-foot driveway and Chase has a 24-foot driveway. As previously stated, concerned there is not enough space on that driveway. Would like to see it bigger.

Mr. Vetter: Had the same concern. Thinks it is narrow and sees congestion there. But if it is a low volume facility, for one use, it should be ok. Shares the same concerns that the driveway is not conducive to an easy flow of traffic, in or out of the facility.

Mme. Chair: Stated she thought there would be less traffic flowing into this site than the previous occupant of that property, especially in the evening when the bank will not be open so there will not be traffic at that time.

Asked Mr. Sulkis for his opinion of the driveway.

Mr. Sulkis: It is an unusually shaped site. They had challenges in laying it out. Messrs. Bender and Vetter's concerns appear to be with the traffic coming off the site, but the circulation pattern within the site. It's not the best but it is not the worst. As a site with one user makes it more palatable. If there was more than one user, he would be concerned about the traffic pattern.

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Mme. Chair: Stated she did not view this as a safety issue, and that would be her concern.

Ms. Shaw: Made a motion to approve the petition of VHB, Inc. for a Special Exception and Site Plan Review to construct a bank building on Map 100, Block 805, Parcel 811A, of which Olympia Properties LLC is the owner. This approval is contingent on the compliance with all agency department reports.

Mrs. Patterson: Second.

Mr. Ferrante: Stated he was not present at the last meeting but listened to the meeting and will vote on the application.

Mrs. Golden: Stated she did not view or hear the previous meeting and would not be voting on the application.

Mr. Liddy entered the meeting at this time and was given an update as to the discussion that had been taking place.

A vote was taken: Six members voted in favor of the motion to approve. Mr. Bender voted against the motion. Mrs. Golden did not vote.

Mrs. Patterson: Made a motion to add an item to the agenda: Re approval of a Site Plan Review for 198-206 Depot Road, which the Board had previously approved on February 5, 2008.

Mrs. Golden: Second.

All members voted in favor of adding this item to the agenda.

Mme. Chair: Read the letter addressed to Mr. Sulkis from Jesse Hamblin of ID Design Group dated August 26, 2009, requesting re approval of what is now an expired Site Plan approval which had been approved by the Board on February 5, 2008.

Mr. Sulkis: This is a case where the applicant lost track of the time to obtain a zoning permit to begin construction on the approved project. The site plan approval has lapsed and the only way they can get a permit is to either reapply and go through the whole process again or have the Board reapprove it.

Mr. Bender: Has this been done before? Is this a normal practice?

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Mr. Sulkis: It is an unusual situation in that most applicants going for board approval are anxious to get a zoning permit and begin the work. It is not unheard of for applicants to ask for extensions of time as the date of expiration approaches.

Mr. Liddy: Asked what is the time period allowed for a Site Plan Review.

Mr. Vetter: Based on the date of approval, this same board reviewed and approved this application.

Mme. Chair: Has no issues with this request. Believes if the Board can legally help a business in this economy it should do so.

Mr. Sulkis: Read section 7.1.3.13 regarding the expiration of site plan review approval. Construction must be commenced in one year, unless an extension of time is applied for by the applicant.

Mrs. Patterson: Made a motion to approve re approval of Site Plan Review at 198-206 Depot Road for the new warehouse building Building No. 3 and the addition to Building No. 1.

Mr. Vetter: Second.

Mr. Ferrante: Wondered if there would be repercussions from other applicants, and if the Board would be setting a precedent for this type of action.

Mr. Sulkis: Suggested the Board amend its motion to grant the first extension of time and not state "re approval". When a situation such as this has occurred it is usually within the time period of the approval. In this case the approval had expired. If the Board members feel uncomfortable with this, they do not have to vote for it. The applicant can come before the Board and reapply for approval.

Mr. Ferrante: Asked how many extensions are allowed.

Mr. Sulkis: Three.

Mr. Ferrante: Moved to amend the motion to grant an extension of the approval from February 5, 2009 to expire on February 5, 2010.

Mr. Liddy: Second.

Mr. Bender: Asked how much time the applicant is being given to break ground.

Mr. Sulkis: This situation came about because the applicant wanted to pull the permit to begin work.

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All members voted in favor of the amendment.

Mrs. Patterson: Withdrew the first motion and replace it with the amended motion.

Mrs. Golden: Second.

The amended motion passed unanimously.

F. PROPOSED REGULATION CHANGES

Mr. Sulkis: The last batch of regulation changes were sent to the required agencies. We should be getting back comments from the various regional council of governments and DEP this month. Public Hearing can be scheduled for next month.

Mme. Chair: Asked if a text change could be made to clarify the wording that states two-thirds necessary vote for special exception applications.

Mr. Sulkis: Suggested wording to the effect: "Those voting who are present and able to vote".

Mr. Ferrante: Suggested different wording, i.e. Two thirds of the quorum present or two thirds of the Board.

Mme. Chair: That was the issue. As the regulation is written right now, it could imply two-thirds of the entire board. The question is: Does that mean the entire ten members of the board or does it mean the quorum of the board that is present at that particular date. Conclusion was the two-thirds vote would be from the number of people who are present at that time.

Mr. Sulkis: According to legal counsel it is "present and able to vote", because there could be a scenario where there are 8 members present but two of them have to recuse themselves, so now there 6 members present. If the language is kept as it is currently written, in theory there could be an item that never gets voted on because the entire board would have to be present and the entire board would need to vote, which may not be possible.

Mr. Bender: Suggested the wording be the same as that which appears on the agenda notice, "...those members present and voting".

Mr. Ferrante: Questioned certain instances of a voting quorum.

Mme. Chair: It would be up to the Chair to put off a vote if there are not enough people present for the necessary quorum.

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G. LIAISON REPORTS - None

H. APPROVAL OF MINUTES – (8/18/09)

Mr. Bender: Motion to approve.

Mr. Liddy: Second.

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

I. CHAIR'S REPORT

Mme. Chair: Addressed a matter of concern to the Board, which has come up in the past week. There have been reports in local papers of last week's meeting of the Economic Development Commission. A letter has been sent to the Chair correcting this information. Read the letter in its entirety for the public and for the record:

"Dear Ms. Salvatore,

"We were disheartened by the comments made at the August 25th Economic Development Commission's meeting regarding the Planning and Zoning Board, and our City Planner, David Sulkis.

"It is understood that many people in the city have misconceptions about the role of the Planning and Zoning Board and the role of the City Planner. But insofar as the statements that were made at your meeting were factually incorrect and at times churlish, and that these statements came from appointed members of the Economic Development Commission, the CEO of the Chamber of Commerce, as well as Mr. Louis D'Amato Sr. and his attorney Mr. Leo Carroll, (and that these statements made their way into both the New Haven Register and Connecticut Post), we felt it was incumbent upon us to publically correct the record.

"There were numerous statements made that were simply false:

"Mr. Carroll stated, 'The Planning and Zoning Department has no provision for adaptive re-use.'

"This is an untrue statement. The provision for re-use is through the filing of a Special Exception application that can be used if a use in a particular zone is not an approved use, yet is not specifically prohibited. Recent non-industrial approvals for re-use in an Industrial District include a Pilates business, a paint

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ball recreational facility, a dance studio and an indoor racing car recreational facility to name a few. PLEASE NOTE: several of these businesses are in buildings owned by Mr. D'Amato.

"Keep this in mind as I continue.

"Mr. Carroll continued by stating, 'If you can't re-use a space for the same purpose, planning and zoning says it just has to sit there.'

"This again is untrue. The requirement is compliance with regulations. Refer back to the examples just given.

"Mr. Carroll also misrepresented the recent P & Z Board's denial of the Doggie Day Care Center application for one of Mr. D'Amato's buildings, by saying that the denial was based on the width of the driveway.

"The fact was that was only ONE of the 11 reasons given for denial.

"Mr. D'Amato stated, "The zoning board's mission is to promote economic development."

"In fact, the entire mission statement reads as follows: The Milford Planning and Zoning Board accepts responsibility placed upon it by the citizens of Milford to utilize the Plan of Conservation and Development as a guide in its decision making process. Using our best judgment, and with high ethical standards, the Board will seek to balance the economic needs of the community with the need to preserve Milford's character and natural resources.

"Mr. Carroll stated, 'We don't feel like we're getting a fair shake.'

"Fact: All applicants are required to follow the same regulations. The regulations were not followed in the Doggie Day Care application.

"Mr. Carroll stated, "Zoning regulations make it virtually impossible to come up with new uses for old buildings."

"This is perplexing and false. There are MANY and varied approved uses in the Industrial Zone regulations. Again, remember the examples previously cited that explicitly refutes this allegation.

"And then, what I have said earlier as well about using Special Exception for these applications.

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“Mr. Carroll stated, referring to the Schick Manufacturing application for additional space, ‘The city almost lost the company because the zoning board failed to expedite the approval.’

“This is also indeed very puzzling. The application was received in the P & Z office on Nov. 28th, 2007 and was approved by the Board at their next meeting, Dec 5th, less than a week. To expedite this faster would be virtually impossible.

“Mr. Carroll stated, ‘Milford’s regulations do not provide for the city’s economic vitality.’

“Response: The purpose of all zoning regulations is to promote the health, safety and general welfare of a community. This pertains to ALL of residents and not to one specific sector. The Board, as an ongoing process, updates, changes or adds new regulations. Any citizen of Milford can apply for a regulation change. Neither Mr. Carroll nor Mr. D’Amato have done so at this point.

“There seems to be a belief that the Board should approve an application if it is deemed to be an economic plus for the city.

“Under state statutes, a Planning and Zoning Commission can only look at an application in terms of appropriate land use in compliance with regulations. The economic viability of any application is outside the Board’s purview. This is misunderstood by many people.

“A further matter of concern to us, relayed from several at the meeting, was that Mr. Carroll/Mr. D’Amato claim that the Board merely rubber stamps what is wanted by Mr. Sulkis. Our response to this is to say, view our televised Board meetings to see the incorrectness of that claim, or make your own judgment when you do.

“Additionally, Board member, Mr. Settineri, was quoted , “...it’s time to make some changes and exceptions.” Could he be suggesting that some should be exempt from following regulations?

“Another quote from Mr. Settineri, “ It sounds to me like planning and zoning has replaced the Building Department as the issue in this town.” Perhaps he has not read the Kimball Report (which was generally favorable regarding the Planning and Zoning Department) that seems to refute the numerous allegations that builders avoid Milford because of the difficult permitting process. The City reportedly ranks in the top three municipalities in the state for issuance of building permits over the past several years.

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“Ms. Kathy Alagno, CEO of the Chamber of Commerce and one of your commissioners who serves in a non-voting capacity, was quoted as saying that about 25 local businesses have complained to her about zoning issues. I would hope that these complaints have been referred to the Planning and Zoning Department where they can be appropriately evaluated and handled. In fairness, Ms. Alagno should be asked to clarify her statement and be specific about those complaints.

“Lastly, but perhaps the most disturbing, have been several first hand reports that Mr. D’Amato declared that he was going to “get rid” of Mr. Sulkis. It has been reported that he made this statement at several city meetings, including the Sewer Commission where he serves as one of the commissioners. How can one view this statement as anything other than a threat? We leave this for others to ponder with all of the questions and ramifications that it presents.

“We as a board take our roles in this community very seriously because we understand that we say publicly and how we make decisions have a direct impact on our city. No one on the Planning and Zoning Board takes lightly their responsibility to Milford and to the state and local laws. We expect that those who also have responsibility and the privilege of serving the City of Milford do so with honesty and fairness; the same standards of our Board. We expect vigorous debate and encourage public discourse. We also expect that such discourse be done respectfully and without animus.

“We thank you for your attention to this matter and hope that if you or anyone have concerns that you will contact us directly.

Sincerely, Jeanne Cervin, Chair; Kim Rose, Vice Chair; Planning and Zoning Commission”.

This letter has been unanimously endorsed by the entire board and was edited by board member, Susan Shaw.

[Letter was addressed to Ms. Genevieve Salvatore, Chairwoman, Economic Development Commission, 146 So. Broad St. Milford, CT. 06460 dated August 28, 2009]

Mme. Chair continued to say that the Board sees this as a grave matter of concern and believe it should be a concern for the community as well.

Asked Ms. Shaw if she had any comments, as she had been present at the meeting.

Ms. Shaw: Thanked the Chair for the letter. Noted there were other matters discussed at that meeting:

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1) The Neighborhood Preservation Ordinance is being written through the EDC by Ms. Susan Patrick. This is the blight ordinance and they are preparing to present this at the next Board of Aldermen meeting, which is September 14th.

2) This item was covered in the newspaper as well, which is the historic property, specifically 417 Gulf Street. Some people noted that there is a permit in the window of that building that caused some concern. The Mayor's office said that permit was for internal demolition.

3) "Milford Proud", a shop local campaign is being launched for all of Milford. The presentation was done at the Economic Development Commission.

Mme. Chair: Commended Ms. Shaw on the work she has done with that campaign.

Mr. Liddy: Who would be receiving the letter she read.

Mme. Chair: To the newspapers, the Mayor and the EDC chair sends copies to all members of her commission.

Noted there has been no liaison to the Economic Development Commission. Asked Ms. Shaw to be liaison to that commission.

Ms. Shaw: Stated she would.

J. STAFF REPORT – None.

Mr. Bender: Motion to adjourn

Mr. Liddy: Second.

The meeting adjourned at 8:05. The next meeting will be held on September 15th.

Phyllis Leggett, Board Clerk