

**PLANNING AND ZONING BOARD AMENDED AGENDA FOR THREE (3) PUBLIC HEARINGS TO BE HELD
TUESDAY, 17 OCTOBER 2017, 7:30 PM, CITY HALL AUDITORIUM, 110 RIVER STREET**

The meeting of the Planning and Zoning Board came to order at 7:37 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: Scott Marlow (Ch), Jim Quish (V-Ch), Nancy Austin, Michael Dolan, Brian Kaligian, Tom Nichol, Rick Varrone

Not Present: John Grant, Carl Moore, Tom Panzella

Staff: David Sulkis, City Planner; Meg Greene, Interim Board Clerk

Mr. Marlow asked that the order of business be reordered to present more information about 30 East Broadway prior to the vote. **Mr. Quish** motioned to reorder, **Mr. Dolan** seconded, and the motion carried unanimously.

C. NEW BUSINESS

1. **8-24 Review** for 5-year lease on property at **25-27 River Street**, Map 54, Block 397, Lots 4-5 of which the City of Milford is the owner.

Mr. Sulkis said David Fernandez owned Bistro Basque on River Street as well as adjoining buildings with a patio behind them, and that Mr. Fernandez wished to share a portion of the open area adjacent to Eli's.

David Fernandez, 15 River St, described his request for a lease for an outdoor area next to Eli's for his restaurant.

Board Discussion: **Mr. Nichol** asked about food transportation to the patio and egress in an emergency. He confirmed that the 2 trees on the site would remain.

Motion: **Mr. Varrone** motioned to approve.

Second: **Mr. Nichol** seconded.

Discussion: None.

Vote: The motion carried with **Ms. Austin**, and **Messrs Dolan, Kaligian, Marlow, Nichol, Quish**, and **Varrone** voting with the motion.

2. **26 Cherry Street (RO)** Petition of Petition of Dominick Thomas, Esq., for an Amendment to Site Plan Review to construct an addition to an existing building on Map 65, Block 822, Parcel 43, of which 26 Cherry St. Assoc., LLC, is the owner.

Attorney Thomas, 315 Main St, Derby, presented packets of aerial and street level photos to the board. He recounted the history of the site, saying the area is now mainly office use. He said his clients wished to build a small addition at the rear of the building, demolish the garage, and add parking and a dumpster enclosure. He said one office in the building will be used by an attorney, the other office would be for real estate. He introduced John Wicko.

John Wicko, architect, 50 Broad St, reviewed the site improvements for the proposed project, noting that the front of the building would remain the same. He described the parking changes. He noted enhanced conformities to zoning requirements and showed drawings of the dumpster enclosure, as well as elevations and floorplans.

Mr. Sulkis said increased compliance makes the plan an improvement to the site. He noted that a fence would be added to address the proximity of the parking lot to the edge of the lot.

Motion: **Mr. Nichol** motioned to approve.

Second: **Mr. Varrone** seconded.

Discussion: None.

Vote: The motion carried with **Ms. Austin**, and **Messrs Dolan, Kaligian, Marlow, Nichol, Quish**, and **Varrone** voting with the motion.

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3. **ACTION ON PROPOSED SETTLEMENT AGREEMENT** for WALNUT BEACH ASSOCIATION ET AL V. PLANNING AND ZONING BOARD OF THE CITY OF MILFORD, ET AL, *NOTE: ITEM WAS MOVED TO THE END OF THE PUBLIC HEARING BY VOTE. SEE BELOW.*

D. PUBLIC HEARINGS

POSTPONED to 8 NOVEMBER 2017

1. **65 Plains Road (CDD-1)** Petition of AAP Builders LLC, for a Special Permit and Site Plan Review for 12 units of housing constructed under CGS 8-30g on Map 53, Block 939, Parcel 30 of which 65 Plains Road, LLC is the owner.

Close by 7 DECEMBER 2017

2. **PROPOSED TEXT REGULATION AMENDMENT** Petition of Thomas B. Lynch, Esq., on behalf of Beach Village, LLC, to amend Section 3.17.2.16 (2) and 3.17.2.16 (4) of the Milford Zoning Regulations to allow mixed use buildings in the CDD-2 zone with less than 20% commercial.

Article III Section 3.17.2.16 (2) and (4) as follows:

*(2) In case of a lot that is wholly or partially in the AE-12 flood zone and containing four or more acres, the total gross floor area devoted to commercial use shall be 5.5% and the remaining use shall be residential. **(new)***

*(4) The balance of the total gross floor area of the buildings in a mixed-residential use shall contain one or more of the following uses: **(new)** (items a thru e unchanged)*

Attorney Lynch, 63 Cherry St, said he would combine presentations for the next 2 items on the agenda. He explained a brief side-bar conversation with the City Planner after the application was read by Mr. Marlow. Attorney Lynch said that he and Mr. Sulkis confirmed the percentage in item (2) above of 5.5%. Attorney Lynch reviewed the original application to change the 2015 CDD-2 regulation requiring a 20% commercial/80% residential allocation. He said the subsequent court action produced a negotiated settlement that required board approval before being presented to the court again. He said the Beach Shore Village project has 2 buildings to be constructed and that the base flood elevations had changed to affect the original first floor plan. He said the new plan would have 4 residential units with flood mitigation features in the building. He said the neighbors had been concerned that if the Naugatuck Avenue building were made entirely residential, commercial activity would be discouraged in the area. The settlement allowed the East Broadway building to be residential and future residential/commercial development to be determined on a case-by-case basis. He asked PE/LS Ron Wassmer to present the revised site plan. Attorney Lynch reviewed the revised percentages and said the settlement would be presented to Judge Hiller in Milford Superior Court on Friday.

Ron Wassmer, CCG LL, 158 Research Drive, said most of the infrastructure for the building was already in place. He reviewed location of the 2 buildings. He compared the revised plan to the original plans.

Mr. Sulkis confirmed with Attorney Lynch that both items in the public hearing were linked.

Chairman Marlow opened the hearing to the public with instructions.

Favor: Bill Schule, 22 Beach Shore Drive, said many of the residents of the Beach Shore condominium complex had reviewed the plans, approved of them, and would like to see the project completed.

Opposed: None.

Chairman Marlow closed the hearing.

Motion: **Mr. Quish** motioned to approve.

Second: **Mr. Dolan** seconded.

Discussion: None.

Vote: The motion carried with **Ms. Austin**, and **Messrs Dolan, Kaligian, Marlow, Nichol, Quish**, and **Varrone** voting with the motion.

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- 3. ACTION ON PROPOSED SETTLEMENT AGREEMENT for WALNUT BEACH ASSOCIATION ET AL V. PLANNING AND ZONING BOARD OF THE CITY OF MILFORD, ET AL**, Dockets AAN-CV15-6019768-S and AAN-CV16-6019855-S under Connecticut General Statute 8-8(n) regarding the property located at 30 East Broadway, Milford, Connecticut; hearing on Friday, OCTOBER 20, 2017, at 10:00 AM, at the Superior Court for the Judicial District of Milford/Ansonia, Connecticut.

Attorney Danielle Bercury, Brenner, Saltzman & Wallman LLP, 271 Whitney Avenue, New Haven, said Attorney Lynch had presented the background well. She detailed the concerns of her clients and the course of the litigation, resulting in the proposed resolution. She said she had forwarded information from the statute noting that a public hearing is not required, but invited comment. **Mr. Quish** said he appreciated the compromise for the benefit of the area.

Chairman Marlow invited any further comments, none were offered.

Motion: Mr. Varrone motioned to accept the submitted agreement dated Oct 17, 2017.

Second: Ms. Austin seconded.

Discussion: None.

Vote: The motion carried with **Ms. Austin**, and **Messrs Dolan, Kaligian, Marlow, Nichol, Quish**, and **Varrone** voting with the motion.

E. CHAIR REPORT **Mr. Marlow** said he was pleased with effectiveness of the new procedures for voting. He also asked for comment on the process for rebuttals and second rebuttals. **Mr. Quish** said it's unusual for the board to hear a second rebuttal, but wanted to provide a possibility for it. **Mr. Varrone** and **Mr. Nichol** agreed.

F. LIAISON REPORTS: None

G. REGULATION SUBCOMMITTEE: None

H. APPROVAL OF MINUTES: The 3 October 2017 and amended 19 September 2017 minutes were approved unanimously.

I. STAFF REPORT: None

J. ADJOURNMENT was at 8:27.

Attest:

M.E. Greene, Interim Clerk, Planning and Zoning Board

Note: Minutes are not official until approved by Board vote at a subsequent meeting.