

PLANNING AND ZONING BOARD MINUTES FOR MEETING HELD TUESDAY 1 NOVEMBER 2022, 7:00 PM

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

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: N. Austin, E. Hirsch, J. Kader, B. Kaligian, C.S. Moore, J. Mortimer, J. Quish, R. Satti, M. Zahariades

Not Present: J. Castignoli

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

Chairman Quish announced that the meeting would stand in recess for an executive session.

C. EXECUTIVE SESSION—Primrose Development, LLC, v. City of Milford Planning & Zoning Commission: Discussion regarding pending appeal by applicant.

The board returned at 7:43.

D. NEW BUSINESS

VOTE BY JANUARY 6, 2023

1) 0 Quarry Road (Zone R-18) Petition of Jeff Attolino for a waiver under subdivision regulation 6.4 to an approved Subdivision to allow overhead utilities at Map 101, Block 807, Parcel 9R, of which Black Lab Investments, LLC is the owner.

Mr. Attolino, 136 Research Drive, addressed the board. He reviewed the original request, which was approved by the board in December of 2021. He presented a large photo showing a utility pole, saying United Illuminating (UI) had informed him that it is a transitional pole and that running underground utilities for 2 houses near it violated UI safety policies, thus his request for a waiver. He said UI suggested installing another pole on the opposite side of the driveway, but that would create dual sight line obstacles for cars pulling out of the driveway as well as a second abutting driveway. **Mr. Attolino** said Quarry Road traffic was a concern with the original approval for the board. Installing another pole would also affect a wetland and require a rain garden be installed in a small area. He said that he wanted to avoid lining the street with utility poles and that the infrastructure in the neighborhood is preexisting and based on overhead power, so adding overhead powerlines would not change current practice.

Mr. Hirsch said the waiver would amount to a safety measure for people in the area. **Mr. Satti** clarified with **Mr. Attolino** aspects of the original subdivision application. **Mr. Mortimer** clarified with **Mr. Attolino** how both types of wires would be installed.

Mr. Sulkis read his administrative report, referring to regulations for modifying subdivision regulations in specific circumstances and noting that 8 members of the board must vote in the affirmative to approve. **Chairman Quish** asked if the intent was to install underground utilities was meant to target existing subdivisions or only those involving a new street; **Mr. Sulkis** said he couldn't speculate on previous board intentions, but the regulations direct developers to put utilities underground and some consideration could be made for issues unique to a property. He suggested it would be helpful if the application contained correspondence from UI describing their preference for an overhead wire installation.

Chairman Quish asked if **Mr. Attolino** wanted to wait for a full board attendance and to submit a letter from UI expressing their preference. **Mr. Attolino** agreed.

2) Extension of Moratorium 22-7 Petition of the Planning and Zoning Board for an extension of a change to Article VI, Section 6.4 Non-Conforming Lots.

Chairman Quish asked **Mr. Sulkis** to summarize the background for the moratorium. **Mr. Sulkis** described how unintended lot-creation consequences arose after Section 6.4.2 was dissolved. He said an upcoming Regulation Subcommittee meeting would be held and potential resolutions could be discussed then. **Mr. Hirsch** asked if citizens' ability to do what they wish with their property was being affected by the delay; **Mr. Sulkis** and **Chairman Quish** provided context for **Mr. Hirsch** and highlighted the need to rectify the unintended consequences of the original change. **Mr. Sulkis** reviewed the process for making regulation changes and why it is time consuming. **Mr. Satti** took the opportunity to urge more participation on the Regulation Subcommittee.

Mr. Mortimer moved to approve the petition of the Planning and Zoning Board for an extension of the existing moratorium while a new proposed Section 6.4.2 regulation for Non-Conforming Lots is drafted. The existing moratorium will be extended until February 28th, 2023.

Second: **Mr. Kader** seconded.

Discussion: None.

Vote: Motion carried with **Mr. Hirsch** voting against the motion and **Mr. Satti** abstaining.

E. PUBLIC HEARINGS

CLOSE BY NOVEMBER 16, 2022; VOTE BY JANUARY 20, 2023

1. **Proposed Regulation Change 22-4** Petition of Kevin Curseaden, Esq. for a change to Article VII, Sections 7.1.1.1, 7.1.1.2, and 7.1.1.3 to change Site Plan Review Procedures.

Attorney Curseaden, 3 Lafayette Street, addressed the board. He reviewed the history of the application and provided follow-up information on questions posed at the original presentation. **Mr. Hirsch** had asked Attorney Curseaden to identify the problem the proposed change was meant to solve. **Attorney Curseaden** described the process of submitting an application for site plan review in Milford and said that bottlenecks and delays in the review process prior to “starting the clock” on the 65-day statutory requirement meant that the city frequently fails to meet it. He said the current regulations allow the City Planner to appoint other plan reviewers, but not the DPLU director, and he felt the director should also have this discretion. He said if only one person can review applications, the 65-day review is effectively disregarded. He said that as regulatory requirements increase, progress will become even more slow, delaying applications that should come before the board in 65 days.

Mr. Satti recalled that in September, Attorney Curseaden said he might bring others forward who are also frustrated. **Attorney Curseaden** said that others were reluctant to come forward. He said that his main concern is compliance with the statute and that a concern that there are too many opportunities for delays. He said he understands the desire is for a quality, vetted application, but felt that delays could be based on minor issues. He asserted that the board, not staff, could determine whether a project should be approved or revised. He compared the P&Z review process to the Inland Wetlands Agency (IWA) model, which he found more effective. **Chairman Quish** asked DPLU Director Joe Griffith to comment.

Mr. Griffith reviewed how applications to IWA are presented for preliminary review, after which time the application is developed and returned to the IWA commissioners in a completed state. He said this iterative process could be the same for PZ applications. **Mr. Mortimer** asked if delays have been a problem; **Mr. Griffith** said it is a real problem in his view because at no point does the clock officially start, while acknowledging that many factors can affect it, including staff workloads. **Mr. Moore** asked what repercussions, if any, occur when the 65-day clock is not met, such as a default decision; **Mr. Griffith** said this was part of the problem because the clock won’t run out if it doesn’t start at a specific time. **Chairman Quish** asked Mr. Griffith whether he thinks this proposed regulation change addresses that problem; **Mr. Griffith** said he thought it did. **Chairman Quish** asked what would start the clock date if the regulation change was approved. **Mr. Griffith** said the start date would be the first meeting date after application is handed in. **Chairman Quish** asked if Mr. Griffith was in favor of the change, **Mr. Griffith** said he was, but added that nothing prevents the board from further amending the change via the Regulation Subcommittee. **Mr. Moore** revisited his question about repercussions if the 65 days limit isn’t met and whether unvetted, incomplete applications would be submitted. **Mr. Sulkis** said the board would have to determine if an application is incomplete on the first date it receives it; otherwise, it must be sent back to applicant. **Mr. Griffith** said the first day an application is presented to board would not be for approval, but rather to assess its completeness. **Mr. Sulkis** said a unique aspect of the PZ process is that several other departments must review the application and applicants must update required changes from those departments, which also takes time. He said he had checked with the City Attorney who said that the current process is legal. **Mr. Sulkis** said he believed that if the goal is to make process faster, the regulation change will add complications to make approvals take longer. Discussion ensued about other departmental reviews (PD, FD, Engineering and Sewer Commission, etc.) and the completeness of applications based on those reviews, thereby starting the 65-day clock when vetted application is put in front of the board.

Attorney Curseaden responded to the question of outcomes if there is no vote in 65 days, noting that if the application is only a Site Plan Review, it will be approved automatically if no vote has occurred. He noted that the same issue is present in other municipalities. He said the main problem is that Milford’s Regulations allow for deviation from statute. He suggested that an applicant can pay for outside review to ensure completeness. Further discussion ensued on how the P&Z process differs from the IWA process.

Mr. Quish asked for public comment. Hearing none, he closed the hearing and asked for a motion.

Mr. Satti moved to approve as presented the Petition of Petition of Kevin Curseaden, Esq. for a change to Sections 7.1.1.1, 7.1.1.2, and 7.1.1.3 to change Site Plan Review Procedures. Effective Date: 11/18/22

Second: Mr. Mortimer seconded.

Discussion: Mr. Hirsch commented that the change seems unnecessary, given the assessment of the City Attorney, and that regulations should be changed only sparingly. **Mr. Satti** said he will oppose motion because of the lack of evidence of other complaints. He said he feels the statute is being adhered to by staff.

Vote: Motion failed with **Ms. Austin** and **Chairman Quish** voting with the motion.

F. OLD BUSINESS

G. LIAISON REPORTS—None.

H. SUBCOMMITTEE REPORTS—None. Mr. Sulkis shared a new schedule of standing Regulation Subcommittee meetings to follow the first PZ meeting (1st Tuesday) of the month and standing POCD Subcommittees to follow the second (3rd Tuesday).

I. APPROVAL OF MINUTES—**9/20/2022** minutes were approved unanimously.

J. CHAIR'S REPORT – None.

K. STAFF REPORT – None

L. ADJOURNMENT was at 8:34

Attest:

M.E. Greene

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

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