

**MINUTES FOR CONTINUED PUBLIC HEARINGS  
OF THE PLANNING & ZONING BOARD  
HELD TUESDAY, NOVEMBER 20, 2012; AT 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Bender called to order the November 20, 2012 Planning and Zoning Board Public Hearing meeting to order at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

**B. ROLL CALL**

**Members Present:** Ward Willis, Jeanne Cervin, Benjamin Gettinger, John Grant, Edward Mead (Vice Chairman); Michael Casey, Daniel Rindos, Thomas Nichol, Mark Bender, Chairman; Joseph DellaMonica (7:35 p.m.)

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

- C. 1. CGS 8-24 APPROVAL – FENCING PROPOSAL FOR BERNARD/FRANCIS FIELD (TABLED)** – Junior Major League's proposal to install a removable fence at the Bernard/Francis Field referred to the Planning and Zoning Board by the Park, Beach and Recreation Commission.

**Chairman Bender:** This is continued from the last meeting. He stated a representative from the organization was requested to appear to respond to the Board's questions, but no one was present to discuss the 8-24 proposal for fencing at the Bernard/Francis Field, which had been tabled for this purpose.

**Ms. Cervin:** Made a motion to table this item because the Board has more questions.

**Mr. Willis:** Second.

All members voted in favor of tabling this item.

**D. PUBLIC HEARINGS (LEFT OPEN) - CLOSE BY 11/20/2012; expire 12/20/2012**

2. **42 WESTMOOR ROAD (ZONE R-12.5)** – Petition of Buddy Field for a Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence and regrading within 25 feet of a flood plain on Map 30, Block 644, Parcel 7, of which Field and Son Builders LLC is the owner.

**Mr. Lynch:** The hearing was left open to give the public another opportunity to speak for or against the application in the event they could not attend the prior hearing when the weather was snowy.

**Chairman Bender:** Agreed that was the reason to keep the hearing open. Asked if there was anyone in favor of this application? (No response). Asked if there was anyone opposed to the application. (No response)

The public hearing was closed.

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**Ms. Cervin:** It appears they have done everything to conform to the regulations and the CAM Site Plan Review was in order. This application should be approved.

**Mr. Mead:** At the original hearing the neighbors' concern was this property would flood onto other properties as well as the road and the ability for fire apparatus to negotiate the road. The applicant has now shown the property is raised from the road. In addition, the Fire Department review and consultant, Lee Cooke, former Assistant Fire Chief/Fire Marshal, determined there would be no problem with fire department apparatus accessing the street.

Made a motion to approve the petition of Buddy Field for a Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence and regrading within 25 feet of a flood plain on Map 30, Block 644, Parcel 7, of which Field and Son Builders LLC is the owner.

**Mr. Casey:** Second.

**Ms. Cervin:** Asked for an amendment to make the driveway permeable in light of the flooding risk.

**Mr. Mead:** Second.

All members voted in favor of the amendment to make the driveway permeable.

All members approved the motion to approve the application.

3. **2007 BRIDGEPORT AVENUE (ZONE CDD-3)** - Petition of Thomas Lynch, Esq., for Special Exception and Site Plan Review approval to allow the establishment of a hookah lounge to be located on Map 43, Block 432, Parcel 00025, of which Jaser Enterprise, LLC is the owner.

**Chairman Bender:** This hearing was left open for the police report which was received with no issues.

Asked if there was anyone in favor of the police report that was received?

**David Bacchiocchi, 10 Grandview Terrace.** Stated he was in favor of the police report to allow the Hookah Lounge.

No one to speak in opposition.

The Chairman closed the public hearing.

The Board has to determine the parking situation.

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**Ms. Cervin:** The Board has some leeway with Regulation 5.1.8 and has more discretion as to what it will allow and waiver. Asked how many parking spaces will be waived.

**Chairman Bender:** He had asked Staff for this number which will be needed for the motion.

The Board also has leeway with the Special Exception to revisit this in a year to evaluate the parking situation. This evaluation would be conducted by Staff.

**Ms. Cervin:** Stated she liked that idea.

**Mr. Willis:** Asked for a motion for a ten minute recess to discuss formulating a motion with staff.

**Mr. Sulkis:** Asked what the motion would be as it had not been determined whether the Motion was for approval or not.

**Mr. Mead:** A green space had been discussed near Dorsey's Bar, but that is where the snow was shelved after the snowstorm.

**Ms. Cervin:** As the Board's tree hugger, she asked that the green space be kept to be in compliance with the Tree Commission's recommendation and agreed to by the applicant.

**Mr. Sulkis:** Stated the dumpster enclosure should be made a condition of approval.

**Ms. Cervin:** Noted the items that Mr. Wicko had mentioned that should be included in the motion.

Ms. Cervin and Mr. Grant noted they had watched the last meeting and were eligible to vote.

**Mr. Sulkis:** Noted the dumpster enclosure was to be provided; the signed DOT lease, the hours of usage.

The Board voted to approve a ten minute recess to craft the motion for approval.

(Recess from 7:50 p.m. to 8:10 p.m.)

**Mr. Mead:** Made a motion to approve the petition of Thomas Lynch, Esq., for Special Exception and Site Plan Review approval to allow the establishment of a hookah lounge to be located on Map 43, Block 432, Parcel 00025, of which Jaser Enterprise, LLC is the owner with the following conditions:

1. Dumpster enclosure shall be installed.
2. An executed lease for the parking in the State right- of-way shall be submitted prior to any permits being issued.
3. A green space will be added in accordance with the Tree Commission's recommendation and a wheelstop will be installed to protect the green space.

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4. Parking waiver approval for 63 spaces where 119 are required and 56 will be provided.
5. An annual review to be conducted by the Planning and Zoning staff to ensure compliance with the Statement of Use, Floor Plan and Site Plan submitted.
6. Hours of operation to be no more than 7:00 pm to 1:00 am.

**Ms. Cervin:** Asked if the dumpster condition should be more specific.

**Mr. Sulkis:** Noted there was an alternate plan submitted to the DPLU office on 10/31/2012, after the first public hearing for a single dumpster installation in accordance with the regulations; masonry with vinyl swing doors. It showed all the details and met with his approval. He noted this was the site plan that did not include the parking spaces in the rear.

**Mr. Mead:** Amended the motion for Condition Number 1: Dumpster will be installed in accordance with the plans dated 10/31/2012, which is the site plan submitted without the parking spaces in the rear.

**Ms. Cervin:** Seconded the amendment to Condition Number 1.

All members voted in favor of approval of the amendment.

All members voted in favor of approval of the application to establish a hookah lounge.

**E. PLAN OF CONSERVATION AND DEVELOPMENT - Updated**

**Chairman Bender:** Noted on November 8, 2012, the South Central Regional Council of Governments unanimously approved Milford's proposed Plan of Conservation and Development. The same night the Milford Board of Aldermen unanimously approved the Plan as well.

**Mr. Sulkis:** The Board is in a position to hold a public hearing on December 18<sup>th</sup> for final approval and adoption. The Board should review the documents and see if there are any typos, inconsistencies or other errors that need to be addressed before the final printing takes place.

**Ms. Cervin:** Asked if there would be anything in the document that would be pertinent to the situation resulting from Storm Sandy.

**Mr. Sulkis:** The viability of certain kinds of development along the shorelines will have to be addressed. Mother Nature is reminding everyone of this. The next item on the agenda discusses this to some degree.

**Chairman Bender:** South Central Regional Council reported everything necessary had been covered in the Plan. He will keep up with the Milford Chamber to determine how they are progressing on their plan.

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**F. REQUEST BY STAFF TO ADD SUBSTANTIAL DAMAGE DEFINITION TO THE ZONING REGULATIONS**

**Ms. Harrigan:** This definition is already in the definition of the zoning regulations. The City already tracks substantial damage/improvement for all structures within the flood hazard zone within a 10 year period. Structures with cumulative damage or improvements equal to 50% of the appraised value of the structure must be made flood compliant pursuant to Section 5.8 (Flood Hazard and Flood Damage Prevention) of the Zoning Regulations.

However, adding this definition would also allow those properties that are damaged by multiple flood events to be able to qualify for an Increased Cost of Compliance (ICC) benefit through flood policies with National Flood Insurance Program (NFIP). The ICC provides up to \$30,000 to assist with elevation, demolition, and relocation.

Many property owners would benefit from this added substantial damage language as many properties have cumulative flood damage from Storm Irene and Superstorm Sandy.

The proposed definition would read as follows:

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred. ***“Substantial damage” also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. (New)***

**Chairman Bender:** Is this lowering the bar in any way with regard to elevating the property?

**Ms. Harrigan:** No. Over a 10 year period if they meet the 50% damage, they will have to elevate anyway.

**Mr. Bender:** The bar is still there it just gives them the ability for additional funding.

**Mr. Bender:** Are other towns along the coast doing this?

**Ms. Harrigan:** East Haven and Milford are trying to incorporate this into their regulations.

The Board will move forward with this proposed definition amendment.

**G. PROPOSED ZONING REGULATIONS**

Sec. 3.1.4.2 Building Height in Residential Zones - POCD will influence  
Sec. 2.5.5 Lot Access and Rear Lots awaiting CA input

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Sec. 9.2.3 Prohibited Variances - awaiting CA input  
**Add: Sec. 5.1.4 Off-Street Parking Requirements (10) Health Clubs**

**Chairman Bender:** 3.1.4.2 Will be addressed by the newly formed subcommittee.

**2.5.5 and 9.2.3** City Attorney trying to move this forward.

He has no problem going along with the parking study that had been submitted. This can be reviewed with Staff.

Regulation Review Subcommittee members will consist of: Ms. Cervin, Messrs. Grant, Mead and Bender. Staff will be represented by David Sulkis, City Planner and Stephen Harris, Zoning Enforcement Officer.

**Chairman Bender:** Spoke to the City Attorney. Told him that the Board would like to act on the regulation changes that will be proposed as quickly as possible and it would be important for the City Attorney's office to respond in a timely manner.

## **I. LIAISON REPORTS**

**Ms. Cervin:** Noted the City will soon be getting its natural resource manager. There are presently four applicants under consideration and a determination will be made shortly.

## **J. APPROVAL OF MINUTES – (11/07/2012)**

The Chair noted the time of adjournment was not included in the 11/7/2012 minutes. The time of adjournment was 9:00 p.m.

**Mr. Mead:** Motion to approve the minutes with the time of adjournment noted.

**Mr. Rindos:** Second.

All members voted in favor of approval of the minutes.

## **K. CHAIR'S REPORT**

He attended the Land Use Seminar and thought it was very informative and was presented by learned people. He spoke to Bruce Hyde about making the power point presentation available on the website.

**Ms. Cervin:** Stated waivers were discussed. If there is property that is not reused or readapted there should be no waivers given.

Don't make a motion for denial. Make a motion for approval, even if the Board appears to be in favor of denial.

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**Chairman Bender:** Noted the defeat of a motion to approve creates an automatic denial.

The three minute rule when speaking at a public hearing was discussed.

**Ms. Harrigan:** Next Tuesday, November 27<sup>th</sup>, there will be another Storm Sandy presentation to the public in the City Hall Auditorium at 6:30 p.m.

**Mr. Mead:** Asked approximately how many structures were damaged in the storm.

**Ms. Harrigan:** Approximately 1000, but 200 assessments have been done so far. A quarter to one fifth have been done. This time another area north of Silver Sands was affected.

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

**Mr. Willis:** Second.

The meeting adjourned at 8:35 p.m. The next meeting will be held on Tuesday, December 4, 2012.

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Phyllis Leggett, Board Clerk