

**MINUTES FOR THREE (3) PUBLIC HEARINGS
HELD BY THE PLANNING AND ZONING BOARD
TO BE HELD TUESDAY, DECEMBER 3, 2013; AT 7:30 P.M.
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Mark Bender called to order the December 3, 2013 meeting of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: Jeanne Cervin, Benjamin Gettinger, John Grant, Edward Mead (Vice Chair); Joseph DellaMonica, Tom Nichol, Mark Bender, Chair; Ward Willis (7:35pm)

Not Present: Dan Rindos

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

C. PUBLIC HEARINGS: CLOSE BY 1/7/2014; expires on 3/12/2014

1. **159 HILLSIDE AVENUE (ZONE R-5)** - Petition of Wayne Garrick, Architect, for Special Permit and Coastal Area Management Site Plan Review approval to construct a new single family residence within 25 feet of the high tide line, on Map 49, Block 795, Parcel 77, of which Steven Held is the owner.

Wayne Garrick, Architect, 291 Whitney Avenue, New Haven. Proposal for a new residence. Demolishing the existing house which was damaged beyond repair by Sandy. Have been before the ZBA where two variances were granted. The existing house was nonconforming in all areas of the zoning regulations. They were able to cure the front yard setback, as well as one side yard setback. Received one variance for a side yard and a minor variance for the rear yard on September 10th. The house conforms with regard to its coverage in terms of height and building area. A photograph showing the Special Permit placard on the house was submitted for the record.

Seamus Moran, Site Consultant, Indigo Land Design, Old Saybrook. As part of the ZBA application, several nonconformities of the lot were improved. The lot coverage variance was eliminated and went from 79.6% of the lot to 64.6%, which is below the maximum allowable of 65% in the district. The house is being raised and will exceed the current FEMA elevations. By raising the house a pervious surface is created beneath the house, which will be crushed stone, and will help infiltration by taking the runoff generated from the roof of the house and distributing it underneath the house. The soils underneath the house are all sandy and excellent for infiltration.

Mr. Garrick: The house is in a VE-13; grade is at approximately 10 at this time. The house could be raised to elevation 13, but will be raised to elevation 20.

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Ms. Harrigan: This application was reviewed by John Gaucher and found the construction mitigations adequate. This is a waterfront site, so a chain link fence around the property to catch any windborne debris.

She noted that on a revision was submitted to the engineering office that was not the Site Development Plan that the Board received. A modification as to where the flood zone line is indicated will have to be made. The Board's plan shows it at the sea wall and it is further landward than that, so the house is squarely in the VE-13 zone, as described.

Mr. Garrick: The revised engineering drawings were submitted to the Engineering Department on November 6, 2013, with the revised line. On the plan there is a chain link fence indicated for windborne debris containment.

Ms Harrigan: This revised plan will be required by Planning and Zoning before a permit is issued.

The Chair opened the hearing to the public and read the procedure for the public hearing. Asked if anyone was in favor of the application (No response). He asked if anyone was against (no response). The Chair closed the public hearing.

Mr. Mead: Made a motion to approve the petition of Wayne Garrick, Architect, for Special Permit and Coastal Area Management Site Plan Review approval to construct a new single family residence within 25 feet of the high tide line, on Map 49, Block 795, Parcel 77, of which Steven Held is the owner.

Mr. DellaMonica: Second.

All members voted in favor. The motion passed.

1. **16 BRIDGEWATER AVENUE (ZONE R-5)** - Petition of Mark Pucci for Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence within 25 feet of the high tide line, on Map 13, Block 139, Parcel 3, of which 16 Bridgewater Avenue, LLC is the owner.

Mark Pucci, Two Broad Street, Milford. Applicant for 16 Bridgewater Avenue to construct a new single family home. The previous home was totally destroyed by hurricane Sandy. The old home was nonconforming. It did not meet the setbacks and was way over the lot coverage. The new home will be compliant in all zoning and building respects. There were no negative comments from the City departments. The home will be two stories with parking underneath. First floor elevation is VE 17. It is in the VE flood zone. There will be a two car garage, open underneath on concrete piers.

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Ms. Harrigan: This CAM was unusual in a couple of respects. On the development plan the property owner owns two parcels in close proximity to one another. There are two lots adjacent to the development site itself, so they are using that site for their construction staging, so that is shown on the development plan showing site protection, such as a silt fence and sand bags around the waterward section of the site. The application was sent to John Gaucher of the DEEP. He requested some modifications which the applicant agreed to and revised.

Chairman Bender: Inquired about the chain link fence that was noted on the site plan.

Mr. Pucci: A chain link fence will be placed around both of his sites. The lot in between will be protected because both lots will have a fence around each lot.

The Chair opened the hearing to the public. Read the procedures for the public to speak. Anyone in favor of the application? (No response). Anyone opposed? (No response)

The Chair closed the public hearing.

Mr. DellaMonica: Made a motion to approve Petition of Mark Pucci for Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence within 25 feet of the high tide line, on Map 13, Block 139, Parcel 3, of which 16 Bridgewater Avenue, LLC is the owner. The requested waiver to allow stair access to the attic level, in accordance with the plans, to be used for storage. The property owner will sign an attic stairway agreement and file it on the land records.

Mr. Nichol: Second.

All members voted in favor of approval.

D. PUBLIC HEARING LEFT OPEN – Close by 12/24/13; expires on 2/28/2014

1. **86 POND POINT AVENUE (ZONE R-12.5)** – Petition of Tom Collucci for Special Permit and Site Plan Review approval to construct 22 residential units under CGS 8-30g Affordable Housing Act on Map 57, Block 712, Parcels 104a, 105a and 106a, of which Colberg, LLC is the owner.

The Chair continued the public hearing accepting public comment:

Bob Sandmann, 58 Pauline Street. Water in his basement has been a problem for many years.

Jonah Callan, 37 Pauline Street How would the new development handle snow removal? Asked the Board to give a snow plowing plan that would work.

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Susan Bedworth, 72 Lindy Street. There is a loft space above the living space. That space could be developed into an additional bedroom or living area.

Christine Volgmuth, 11 Dawes Street. Endangered species living in the area. The stone wall is over 75 years old and can be historic. Ledge is in the area and digging will be difficult. Spoke of many documents that she has in various categories that would work against the development.

Ann Lambiase, 17 Dawes Street. In opposition to removing the woods and the traffic in the neighborhood. She spoke of all the reasons not to allow the development as did everyone who has spoken.

David Lambiase, 17 Dawes Street. Traffic and accidents a major concern. Water a major concern. Everyone gets water in their basements. What will happen with the snow and snow melting.

Steve Fricke, Lindy Street. Nowhere on the site plan indicates where the snow will go. When the snow melts and it rains it will create runoff to the houses that already experience water on their properties. Not in the interest of the residents' health and safety.

Susan Lukas, 99 Pond Point Ave. Lived there for 44 years. Agrees with Lambiase and the traffic on Pond Point Avenue. The development will only increase traffic and hazards.

Robert Lukas, 99 Pond Point Avenue. Lived on the road 66 years. Grandmother owned a farm there. Water was a problem before the area was developed. Has been a continuous problem. Very difficult to do construction with ledge and water.

Daryl Kapikian, Yale Avenue. Lived in Westchester. Moved to Milford to raise his family. Commutes to Manhattan two hours each way. Sees the City changing and becoming more developed. Not the way it used to be when they first moved here seven years ago. Ingress and egress problems. Decreased property values.

Janet Korenchuk, 63 Pond Point Ave. Lives almost directly across the street from the proposed development site. In the summer she cannot open her windows from the traffic on the road. In the summer the exhaust from the cars chokes her.

Kristen Berndt, Marino Drive. In the Milford POCD it says residential zones should allow for single family residences. This is a residential zone

Barry Lawless, 41 Pauline Street. Water issue

Jim McCarthy, 119 Marino Drive. Lived there since 1977. Nothing against affordable housing statute. Objects to putting affordable housing in areas where they should not be.

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Mary McCarthy, 456 Pond Point Avenue. Agrees with her neighbors for all the same reasons. Too much traffic on Pond Point and New Haven Avenues. Too much pavement and asphalt. Need green

Linda DellaMonica, Lindy Street. Huge water street. Streets become ice skating rinks. Lindy Street has become the cutoff street from Dunkin Donuts across New Haven Avenue. Has young drivers who just got their licenses. Afraid for them. Adding 70 cars in a development is too much for the neighborhood.

George Berendt, 96 Marino Drive. Water problems, wildlife on the property.

Elizabeth Wright, 20 South Street. Affordable housing is a threat to each neighborhood. Wildlife, invasive plants. Saw an ad in the paper for over 8 acres of property. Thought the City should buy up these large parcels of undeveloped land.

Cathy Lang, 36 Long Island View Road. She goes through the streets around the property to avoid Pond Point Avenue. Pond Point Avenue is a thoroughfare for bus stops that go to Foran High School, Calf Pen Meadow and Orchard Hills Schools.

Paul Kane. Submitted information he secured from the Milford Police Traffic Division since the last meeting.

Dave Cioffi, 105 Stannard Avenue, Branford. Spoke on behalf of his inlaws on Lindy Street who could not be present. The woods are healthy. Trees should not be cut down. It will weaken the surrounding trees and will let more water pass through the area into the surrounding properties.

Tina Zukowski, 15 Nantrin Terrace. Supports everything her neighbors have said. It will not maintain the character of the neighborhood. Traffic is a problem. Water on the properties is a problem. Asked about the catch basins. What are their sizes; how deep will the water be? Safety issues involved with this. Concerned for her children. Will they be fenced in?

Jim Downes, 119 Snow Apple Lane. Has young children in school. Schools will be overcrowded. Seventy additional vehicles driving down the streets every day.

Sarah Chan, 310 Pond Point Avenue. Traffic is an issue. Schools are a large concern. Has five year old twins. Wildlife with dangerous animals in the area. Saw a coyote and a bobcat right near her property. Fought to buy her house on that street and is now faced with a traffic problem in the front and dangerous animals in the back.

Stan Swanson, Shadyside Lane. Opposed to this project. Can't believe that such a project could be brought so far.

Steven Stern, 196 Pond Point Avenue. Spoke to the 8-30g statute. Developers have taken

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the 8-30g statute and instead of using it as a shield are using it as a sword to get what they want done. It was not the intent of this statute.

Robert Fiore, 20 Salem Walk. Agreed with the residents and Senator Slossberg. Hundreds of properties are available for the purpose of affordable housing. Route One is a perfect area for this type of housing. He spoke of areas that would work for affordable housing in the CDD-5 zone.

Tina Andranovich, 1564 New Haven Avenue. This is a density problem.

Greg Viostko, 102 Marino Drive. Family bought the house in 1965. The area has become very high trafficked. Over 500 people against this. No one in favor. Water a big problem.

Evan Winters, Surprised they are not hearing about 6 hours instead of 33. Dumping on the property was most likely done by contractors. Two years ago houses were built across the street with Board approval. Said there would be no water problems, but there were and the matter was taken to court.

Daniel Phalan, 204 Pond Point Ave. Met most of his neighbors because of accidents. He grew up in the house with 8 brothers and sisters and they played in the front. His child cannot play in the front. Sees accidents all the time.

Steve Fenton, 70 Minute Main Drive. He travels Shadyside Lane to Pond Point. At 7:30 to 8:00 am and in the evening, he cannot go up Pond Point Ave it's so crowded.

Kevin Kieley, Snow Apple Lane. Came back to Milford about ten years ago and rented in 38 Pond Point Avenue. The basement was filled with water. Questions for the Board: If you are building a complex of units that are comparable to each other and a certain amount of people can buy them for 60-80% less, how will you be able to sell the rest of the units within that property if you know your neighbor spend \$100,000 and you have to spend \$200,000 for a comparable unit. Parking for bus stops for schools in the area will have to be determined.

Elizabeth Wright, 20 South Street. All the people who are here give it to the Milford Land Trust so they can buy this parcel to be protected for the people who live in the area.

Kevin Brannin, 233 Shadyside Lane. Spoke about the drainage problem he had when 86 (sic) Pond Point Avenue was being built. He said no one goes back to check the plans on the swales and drainage of the development after it was built.

Dora Kubek, 33 Willoughby Street. Opposes the project. Lives at the Welch's Point and Pond Point intersection. It is already a dangerous intersection. Adding more cars into the neighborhood will create a problem. Sight line problem at Welch's Point into Pond Point Ave.

Kasha Dobkowski, 220 Pond Point Avenue. Agrees with all her neighbors. She lives at the intersection of Pond Point and Welch's Point. It is already dangerous.

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Nora Wise, 38 West River Street. She lived with her daughter in the neighborhood and thought it was beautiful. Agrees with everyone who spoke against it. Please do not destroy the woods.

State Senator Gayle Slossberg, 14 Honeysuckle Lane. Went into detail with regard to her evaluation of the inaccuracy and deficiencies of the Affordability Plan. Problem is the use of the appeals procedure as a bargaining chip to build something that the zoning regs would not otherwise allow. She offered to submit a number of other items and specifics in writing so the Board could have them available. Concluded the application does not on its face meet the necessary legal requirements and should be denied.

Chairman Bender: Agreed she could submit them in writing if she thought clarification was needed.

Alderman Ray Vitale, 48 Founders Way. Gave a list of people who were opposed to the application who did not speak. Thanked the people who spoke so well against the project.

[A recess was taken from 9:38 to 9:50 p.m.]

Chairman Bender: The applicant has the right to rebut.

Attorney Bercury: Appreciates the opportunity to respond to legal issues from the last hearing and those raised tonight. Despite claims to the contrary, the application is not legally deficient and the application was not submitted improperly. Staff directed them to submit a Special Permit and Site Plan application. All the plans went to all the City departments. It was stated there should be a zone change. That is not required under the Connecticut General Statutes, zoning regulations or the Board regulations. Cascade Boulevard was approved by the Board under the same guidelines. Supplements provided to the affordability plan were in response to the Fair Housing Officer.

Two items were submitted to the Board: One from David Spear with regard to the traffic study and a letter from the DEEP regarding the Diversity Data Base..

Jeffrey Gordon, President, Codespoti & Associates. Responded to the comments made by Senator Slossberg at the last meeting with regard to issues she questioned as acceptable for the 8-30g application.

Mr. Gordon responded the traffic study that used the Institute of Transportation Engineers Trip Generation Handbook (ITE), which is the industry standard for doing traffic studies.

The application property is outside the review area designated on the DEEP site and on the Natural Resource Diversity Data Base. Tonight submitted a letter from DEEP stating as much.

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It was stated that a Sediment and Erosion Plan was not submitted. The Sediment and Erosion Plan has been on page SP-4 of the applicant's plans for this project since the application was filed. He explained how point and non-point discharge works in this plan, which was a concern mentioned at the last meeting.

With regard to the comment that the affordable housing units are not specified on the Plan, he noted the Site Plan shows on the chart the specific unit numbers that are designated as affordable housing units and which ones are one bedroom and two bedrooms. This information has always been on the plans.

He discussed the density issue that had been raised and its comparison to the two residential zones that adjoin this property.

Phasing of the project. There is no phasing proposed other than in paving. The infrastructure is going to be built all at once. Looking at a 12-18 month build-out which is almost continuous and considered to be quick.

Driveway width question raised by staff: Described the driveway measurements which are considered safe and more than required in many communities.

Fire safety has been approved by the Milford Fire Department.

Street Parking: On street parking on Pond Point Avenue would be no different than it is anywhere else and it can be restricted.

Joseph Codespoti, Founder, Codespoti & Associates, Orange, CT. Showed the CAM report that had been provided which had been in the file. This project complies with all the requirements of the Coastal Area Management Act. It rests within Shorelands, which is a designation of the coastal area management act. Shorelands are not located within coastal flood or erosion hazard areas and contain no tidal wetlands, beaches or dunes or other sensitive resources and have high development and redevelopment potential. It also notes that development should be because this is where the lack of any real sensitive coastal resources are.

David Spear, DLS Traffic. Provided supplemental accident information obtained from the Milford Police Department, which was a supplement to the previously submitted State data.

Attorney Bercury: Stated her rebuttal was concluded to the comments made.

Chairman Bender: Anyone who has spoken before can come up to speak specifically to what has just been said.

Alderman Brian Anderson, 49 Ingersoll Road. The traffic engineer repeated what was said previously. Equipment laid across Pond Point is in the wrong location. What was supplied to

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the Board from the entrance way of the proposed project is irrelevant. It is insulting that this information would be put on the record. The broader surrounding streets need to be looked at.

Paul Kane, 124 Snowapple Lane, If you take Pond Point Avenue you have to go to New Haven Avenue or go to Orchard Hill School or Foran High School. Emptying 50 or more cars onto that avenue will have a large impact on the area.

Gayle Slossberg, 14 Honeysuckle Lane. Spoke about zone change; need a reply on this from the City Attorney; affordability plan; endangered species; detention pond; build out or phase-in of sales of units.

Steve Fricke, 28 Lindy Street. Traffic study and accidents.

Robert Fiore, 20 Salem Walk. Size of the buildings. If it's two stories state it. Parking and meeting the fire code and fire hydrant.

Bob Lukis, 99 Pond Point Avenue. Accidents all the time in front of his property and his neighbors.

Unnamed speaker. Concerned about who will purchase these units. Does not think the neighborhood will be safe.

Christine Volgmuth: If lofts are put in the units they will be higher than any other houses in the area.

Robert Volgmuth, 23 Dawes Street. Accidents all the time on Pond Point Ave.

Jim McCarthy. Gave the Stew Leonard's analogy as to why Stew's was turned down. Quality of Life.

Barry Lawless, 41 Pauline St.. Drainage will still be a problem. Can drive a canoe up his street.

Dave Cioffi, Branford: Impervious surface going from 3% to 48%. Very high impervious. A lot of water runoff, always polluted.

Ann Lambiase. Water problem. Don't need this to add to the problems.

Jim Brannin, 233 Shadyside. Drainage. Trees were uprooted because so much water came through. Trees had to be replaced by the contractor.

Chairman Bender: Stated he had watched the DVD of the portion of the last meeting that he had missed.

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John Healy, 146 Pond Point Avenue. Testimony speaks to the health and safety and other matters in the 8-30g statute. Asked that the Chairman and the Board read all the materials that were submitted in both meetings. Asked they reject the proposal.

Motions were made, seconded and approved to extend the meeting from 11:00 pm to 12:00 am.

Attorney John Henry Steele, representing Susan DeBiase, an abutting property owner. The public testimony with regard to the public interest in health, safety and other matters such as traffic hazards, unreliability of data employed by the applicant with regard to the volume of traffic and accidents within the area . Disagrees that the property is outside the Natural Diversity Database. Check the map for this property on the data base. All bases raised are proper for denying this application. The interests outweigh the need for affordable housing in the area. The applicant has not indicated that they are willing to change the plan to address all of the issues that have been raised in this particular situation.

Final Rebuttal by Applicant:

Attorney Bercury: Stated she understands how the neighborhood feels about the project. However, she feels 8-30g is there for a reason and is the law in the State of Connecticut. The applicant has listened to the concerns expressed. The applicant reacted out to the DEEP about the diversity data base without knowing how the DEEP would respond. Although they were not required to do so, the applicant asked for that additional review. The State Senator asked for a letter from the City Attorney stating that a zone change was required. She has not seen that letter. As far as this application is concerned they have complied with what Staff has required; what the Board precedent has been, and have listened to concerns about water and traffic and experts have been brought in to address those concerns. Questions raised about what is in the plans; what's in the Affordability Plan and we can say all the plans conform to the statute and regulations, but the Board has multiple reports from the town agencies that confirm that all the plans and documents comply with the regulations and the issues that were brought up by the public were not brought up by the City's experts.

Mr. Codespoti. Spoke to the comment that the applicant is not treating storm water before discharging it. That is not true. He explained how the storm water will be filtered. With regard to supervision of construction, reports can be submitted on a weekly basis to Inland Wetlands to confirm that the plans are being followed.

Chairman Bender: Asked for clarification of the number of stories of each unit.

Mr. Gordon: One and a half stories. There is a main living level that either has one or two bedrooms and a loft that does not have anywhere near half the square footage of the lower floor.

Chairman Bender: Clarify the retention hole/catch basin area.

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Mr. Gordon: It is a dry pond .that will have suitable vegetation for seasonal inundation. There are some hedges and some other protection, but if that is an area of concern, additional type of fencing could be provided if that need be, but again it is dry except during major storm events.

Chairman Bender: A lot of information tonight. His thought is to keep the public hearing open to review what has been received and if there are questions they can be addressed at the next meeting. Another meeting has been added on Wednesday, December 11th in an attempt to get as much done as possible by the end of the year. The application will be closed on the December 11th meeting and a vote will be taken on December 17th.

Ms. Cervin: Asked if the public hearing would be closed to the public for comment.

Chairman Bender: The public can speak if the Board requests new information or if new information is received.

It was verified that written comments should be received by December 11th, such as Senator Slossberg's request to provide written comments.

Attorney Bercury: Stated if anything is submitted in writing in addition to this public hearing, that she would have an opportunity to respond to that as well.

Chairman Bender: Agreed. The public has the opportunity to review the information that was received tonight.

Mr. Dellamonica noted that the additional receipt of information and opportunities to respond may go past the December 17th meeting and the matter will not be concluded.

The Chair indicated only one request for written comment was made by Senator Slossberg.

Ms. Cervin: Would like a hydrology report. Would like Tom Ivers to respond to the Applicant's Affordability Plan.

Attorney Bercury: If Mr. Ivers is going to come speak, will he watch the tapes? What exactly will he respond to? Will her comments be in writing. His report is here. He is not here. She asked what he would be responding to and in what format this request will be made.

Chairman Bender: The specific questions raised in the minutes.

Ms. Cervin: There is a time constraint as to when this process must be finished and the year ends with a new board coming in.

Chairman Bender: The hearing has to be closed by the 24th of December. The Minutes will be reviewed for follow-up for the next meeting. Mr. Ivers will be contacted and ask him to respond prior to the meeting and get that information to the applicant and then to the Board.

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He will check out the hydrology report. He believes it is the Board's responsibility to request that. Will speak to the City Attorney.

Ms. Cervin: With regard to dumping. Is there knowledge about contamination from that dumping.

Attorney Bercury: Thought that people dumped nothing more than household garbage on the site.

Ms. Harrigan: If there was a blight complaint the Health Department could investigate and determine whether they felt that there were any hazardous materials on the site, but it does not sound like that is the extent of what is being discussed.

Attorney Steele: Commented if the hearing is opened up to environmental tests, hydrology tests, the hearing will be extended beyond practical limits. The applicant has the burden of providing full information to the Board for the Board to be able to make the consideration within the time limits allowed.

Chairman Bender: This is an 8-30g which is a gray area as to who the burden of responsibility is on. The Board has the burden of proving health and safety when it comes under appeal.

Attorney Bercury: Procedurally it is unclear what is happening. Is it still a public hearing and people are allowed to make public comments? Her understanding is it is closed at this point except for the written comments –

Chairman Bender: No. Public comment was not closed. It was closed for this evening and any additional information that the Board may ask about can be spoken to. Gray area was about additional testing.

For the open hearing: Senator Slossberg's written comments; Mr. Ivers to respond to the Affordability Plan and the Board can review the information and see if they have questions or require additional information. That's it for Pond Point this evening.

Item E, the Zoning Regulation text changes have been postponed to the December 17, 2013 meeting.

Motions were made, seconded and approved to continue the business of the meeting to 12:00 AM.

E. PUBLIC HEARING LEFT OPEN – Close by 12/11/2013; expires on 2/14/2014

4. **Proposed Zoning Regulation Text Changes Petitioned by Mayor Benjamin G. Blake, In Accordance with the Provisions of Connecticut General Statute 8-3b**

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Article VI Non-Conforming Uses, Structures and Lots

Article VI, Section 6.2 – Non-Conforming Uses,

Section 6.2.6 – Discontinuance

Section 6.3 - Non-Conforming Structures

Section 6.3.6 - Restoration

Article VIII - Interpretation, Administration and Enforcement

Section 8.2.2 - Authority to Enforce

Article XI - Definitions

Section 11.2 - Other Terms

Structure; Improvement, Substantial

F. NEW BUSINESS

5. REQUEST FOR BOND RETURNS:

[The amounts noted for the two subdivision bond returns were reversed. The refund on 989 Wheelers Farms Road is \$9678.80, leaving \$553.20 for maintenance. The refund on 142 West Town Street is in the amount of \$9165.00, leaving \$505 for maintenance.]

- a. **989 WHEELERS FARMS ROAD** – Request by Ronald Standish for subdivision bond return in the amount of \$9,165.00, leaving \$505.00 for maintenance, in accordance with the memo received from Richard Tomasco, Acting Director of Public Works.

Mr. Gettinger: Motion to approve.

Mr. Mead: Second.

All members voted in favor of approval.

- b. **142 WEST TOWN STREET** – Request by Ronald Standish for subdivision bond return in the amount of \$9,678.80, leaving \$553.20 for maintenance, in accordance with the memo received from Richard Tomasco, Acting Director of Public Works.

Chairman Bender: Reviewed the history of the issue with the sidewalks. Spoke to Mr. Sulkis briefly. This issue started with correspondence in December 2012. In his mind the opportunity to pursue this matter and appeal it is not one to take on at this time. In the future when staff is notified, the Board has to act on it quickly. It is a learning lesson. There were emails from the City Attorney's office and others that said this is what is going to happen. He was told by the Engineering Department that the way they negotiated is the developer widened the street in that area rather than do the sidewalks for Bruce. The developer already did something.

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The Chair said it's time to close this matter, learn from it and move on. The bond money is being held hostage because the Board did not act accordingly when it should have. How to appeal this issue through the Board of Aldermen Safety Committee is not known.

Ms. Cervin: Was under the impression a trade in sidewalk locations was to be made.

Chairman Bender: He did not think the Board had enough information to make that decision. The Board did not know that this had been going on for a year. There was no response from the developer that he would install sidewalks on the other properties. In conversations he said he preferred not to do any more as he had already did work in lieu of installing the sidewalk.

Further discussion with regard to the ordinance and City Attorney's confirmation that the Director of Public Works has the authority to waive construction of sidewalks as part of a subdivision. The mechanism that challenges this is through the Public Safety and Welfare Committee of the Board of Aldermen.

We do not have a system in place and it is not fair to hold the developer's bond for over a year because we do not have a process in place.

Mr. Gettinger: Motion to approve.

Mr. Grant: Second.

Six members voted in favor. Ms. Cervin and Mr. Willis voted against.

6. **835 BOSTON POST ROAD PHASE III MEDICAL CENTER** – Request for a one year extension of approval to comply with Section 7.2.8.

Ms. Cervin: Motion to approve the request for a one year extension of approval to comply with Section 7.2.8.

Mr. Mead: Second.

Seven members voted in favor. Chairman Bender: Abstained.

G. PUBLIC HEARINGS - Closed 11/6/2013; expires 1/10/2014

7. **565 PLAINS ROAD (ZONE LI)** Petition of Randy Simpson for Special Exception and Site Plan Review approval to allow a sound barrier to remain and be completed on Map 62, Block 928, Parcel 5, of which Milford Riders Motorcycle Club is the owner.

Mr. Gettinger: The applicants have two options: Do nothing or continue with the fence. Given those two options the Board should vote on this today and let them finish what they are doing.

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Chairman Bender: To do nothing they could take down what they have started.

Mr. Gettinger: That would not be in the best interest of the neighbors who all seem to want the project completed.

Chairman Bender: If too many conditions are put on the approval, the applicant could come back and say they will not do the wall.

Ms. Cervin: The City has no noise ordinance. The State has a noise ordinance that might be put into effect. However, agrees this should go ahead, but know how long the wall will be and where it will end.

Ms. Harrigan: It is clear on the plan in terms of linear feet of sections that they are requesting in two different parts because they are just extending on either side.

Chairman Bender: This is a Special Exception which allows for conditions.

Sound tests after the wall was completed was discussed, however, if the test fails, what can they do, knock the wall down? The Board does not have authority to make them do what they voluntarily want to do. Data should be gathered as to before and after the wall. What if the result is not as good as it was, what can be done? It was determined that a time condition be implemented.

Ms. Harrigan: Neither the City's police department nor the City's zoning enforcement staff have the ability to do decible readings, to get to what complaints mean; how they can be measured. That is not within the City's realm of measurability at this time. Made the request that the Board not get into giving those kinds of conditions as part of the approval.

Chairman Bender: If they do the wall and do measurements after, you have data, so that it can be determined that the noise did or did not go down. You have the opportunity for the applicant to get the data and then decide after one year what has to be done.

Mr. DellaMonica: Made a motion for 565 Plains Road to approve the petition of Randy Simpson for Special Exception and Site Plan Review approval to allow a sound barrier to

remain and be completed on Map 62, Block 928, Parcel 5, of which Milford Riders Motorcycle Club is the owner with the condition that site decible readings be taken at their peak time of operation as soon as the work is completed, compared to the previous sound report provided.

Ms. Harrigan: Recommended the Board request their sound engineer come back to the Board to report on the effectiveness of the wall, because as Staff, she would not feel comfortable providing to the board and they do not have technical knowledge to do this.

Discussion as to when do they come back before the Board and what happens at that point.

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Mr. Gettinger: Would there be another public hearing at that time? Thought is if they put up the wall and it is an eyesore and the neighbors don't like it and the sound engineer comes back and says it did not do anything, then maybe the Board should have the option to bring it down. But the Board won't know whether it is an eyesore and if the neighbors have problems with it if there is not a public hearing.

Chairman Bender: Constituents would let their board members know about it.

Ms. Harrigan: If you request a report back to the Board it is an informational item. That is not something where there is a public hearing that is being opened up with a presentation that requires comments for and against. It is just an informational item back to the Board.

Ms. Cervin: If it is stated a year after completion, when will it be required to complete?

Mr. DellaMonica withdrew his previous motion.

Mr. DellaMonica: Made a motion for 565 Plains Road to approve the petition of Randy Simpson for Special Exception and Site Plan Review approval to allow a sound barrier to remain and be completed on Map 62, Block 928, Parcel 5, of which Milford Riders Motorcycle Club is the owner with the following condition: Within one year of completion of the wall sound measurements taken at peak time will be taken and submitted to the Board for comparison with the initial sound tests submitted to the Board by the sound engineer.

Mr. Grant: Second.

All members voted in favor of approval.

Chairman Bender: Made a motion to table the balance of items on the agenda.

Ms. Harrigan: Noted the Minutes from the previous meeting should be voted on.

Chairman Bender: Amended his motion to table the balance of the agenda items with the exception of approval of Item K, Approval of the Minutes of 11/19/2013.

8. Proposed Moratorium on Medical Marijuana Dispensaries and Producers

The following language would be added to the Milford Planning and Zoning regulations:

Section 2.7.10

The Milford Planning and Zoning Board shall not accept or consider any application to permit the establishment of Medical Marijuana Producers and dispensary facilities for a period of twelve (12) months commencing from the effective date of _____. The reason for the moratorium is to allow the Planning and Zoning Board to review the "*State of Connecticut Regulation of the Department of Consumer Protection concerning palliative use of Marijuana*" and the associated application process for producers and dispensary facilities, and to draft/or

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adopt municipal regulations regarding the production and distribution of medical marijuana within the City of Milford. The expiration date of said moratorium will be _____ unless extended by the Planning and Zoning Board.

Postponed to the December 11, 2013 meeting

H. PUBLIC HEARING – Closed 11/19/13; expires 1/23/2014

9. **229 WEST MAIN STREET (ZONE SFA-10)** – Petition of Thomas J. Lynch, Esq., for Special Permit and Site Plan Review approval to construct nine residential units under Connecticut General Statutes 8-30g Affordable Housing Act, on Map 54, Block 323, Parcel 29, of which Molly Rentals, Inc. is the owner.

I. REGULATION CHANGES – Rear Lots

Discussion of proposed regulation change to Sec. 2.5.5 Rear Lots.

J. LIAISON REPORTS - None

K. APPROVAL OF MINUTES (11/19/2013)

Mr. Gettinger: Made a motion to approve the minutes.

Mr. Mead: Second.

All members voted in favor of approval.

L. CHAIR’S REPORT

M. STAFF REPORT

Mr. Gettinger: Made a motion to adjourn the meeting.

Mr. Mead: Second.

All members voted in favor of adjournment at 11:50 p.m. The next meeting will be held on Wednesday, December 11, 2013 at 7:30 p.m. in the City Hall Auditorium.

Phyllis Leggett, Board Clerk

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