# Chairman Sutton called the December 6, 2016 meeting of the Planning and Zoning Board

# to order at 7:30 p.m.

# A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

**B. ROLL CALL**

**Members Present:** Richard Lutz, Mike Dolan, John Grant, Edward Mead, (Vice Chair); Carl S. Moore, Scott Marlow, Tom Nichol, Tom Panzella, Jim Quish, Anthony Sutton, Board Chairman.

**STAFF:**  David Sulkis, City Planner; Phyllis Leggett, Board Clerk

**CHAIRMAN SUTTON:** Announced Item D4, regarding 335 Meadowside Road will not be taken up tonight. It was requested to be withdrawn from tonight’s agenda and be placed on the December 20th agenda.

**C. OLD BUSINESS**

1. **24 MADDOX AVENUE (ZONE R-5)** Petition of Jeff Attolino for Coastal Management Site

Plan Review approval to construct a single family residence on Map 27, Block 451, Parcel 8

of which Black Labs LLC is the owner.

**Jeff Attolino, 5 Mill Pond Close, Milford CT .** Application was tabled from the previous meeting to readjust the roof line to fit within the regulations for height requirements.

**Mr. Sulkis**: The Applicant has met the request of the Board from the last meeting.

**Motion:** By Mr. Grant to approve the application with correction.

**Second**: Mr. Nichol

**Discussion:** None

**Vote:** All members voted in favor.

2. **687 EAST BROADWAY (ZONE R-5)** Petition of Thomas Lynch, Esq. for Coastal Management Site Plan Review approval to construct a single family residence on Map 22, Block 474, Lot 6, of which Tom McKiernan is the owner.

**John Wicko, 50 Broad Street, Milford** Revised the drawings to include the average grade calculation, for which a new site plan was submitted and distributed to the Board. The cupola has been identified to the maximum height of five feet.

**Mr. Sulkis**: The Board requirements have been met.

**Motion:** By Mr. Grant.

**Second:** By Mr. Moore

**Discussion:** None

**Vote:** All members voted in favor of approval.

**D. NEW BUSINESS**

3. **70 KAY AVENUE (WEST SHORE MIDDLE SCHOOL) (ZONE R-12.5)** Petition of William Silver, Silver Petrucelli and Associates, Inc., for Coastal Management Site Plan Review approval for the expansion of the West Shore Middle School, on Map 65, Block 66, Parcel 12, of which the City of Milford is the owner.

**William Silver, Silver Petrucelli & Associates, 3190 Whitney Ave, Hamden, CT,** representing the Aldermanic Permanent Schools Building Committee for this procject. Mr. Silver described the 10.4 acres involved in the plan for expansion of the West Shore Middle School which entails a programmatic expansion needed for the student population at the school. The site plan was reviewed via the display. The portion of the application as it pertained to the Coastal Area was described. There are no adverse impacts on the coastal resources. There are fresh water wetlands on the property that has already gone through Inland Wetlands. There is no water use on this property. The storm water system was described.

**Mr. Sulkis:** Asked about the City Engineer’s report about the bio swale that would be put at the end of the parking lot to capture any solids that may shoot off before it hits the wetlands.

Was that incorporated in the plan?

**Mr. Silver:** There is a small vegetative structure there and discussing the bio swale with the Public Works Director.

**Motion:** By Mr. Quish to approve the CAMSPR with the condition that the Engineering Department be satisfied with the resolution of the bio swale at the parking area.

**Second:** Mr. Nichol.

**Discussion:** None

**Vote:** All members voted in favor of approval with a condition.

4. **335 MEADOWSIDE ROAD (ZONE R-12.5)** Petition of Warren K. Field, Jr. for a Minor Modification to a Site Plan under CGS 8-30g, on Map 21, Block 213, Parcel 31, of which

335 Meadowside LLC, is the owner. **Postponed to the 12/20/2016 meeting.**

**E. PUBLIC HEARING: CLOSE BY: 1/10/2017; expires 3/16/2017**

5. **110 SHELLAND STREET (ZONE HDD)** Petition of Raymond A. Macaluso, for Special Permit and Site Plan Review approval to create a contractor’s outside storage and operations yard on Map 51, Block 936, Parcels 17M and 17N, of which Mallico Realty is the owner.

**Raymond A. Macaluso, Owner, Westcott & Mapes, 142 Temple Street, New Haven.** Also present: Ray Paier, VP Engineering, Westcott and Mapes and Win Smith, Esq., representing Mallico Realty LLC. On May 23, 2016, Mallico Realty received an Enforcement Order from the City of Milford Planning and Zoning Board for Site Plan Approval. On June 15, 2016, Westcott and Mapes was hired to do a complete survey, civil site plans and are before the Board tonight for the approval.

The property is comprised of two parcels. The intent is to make it one contiguous parcel.

Mr. Mallico has been asked to remove everything that was encroaching once he is able to resume work on the job site. At this time he cannot move or sort any material.

With the new plan, the property meets all the regulations and complies with Zone HDD. All departments have approved the plans in accordance with their regulations. The Statement of Use has been provided. Hours of operation will be M-F 7:00 AM to 7:00 PM. On Saturdays and Sundays, possibly, 8:00 AM to 3:00 PM. In emergency situations the equipment will be used to help the City of Milford and the State for snow removal, etc. Property will only be used for the storage of his equipment. There will be screening of soil material; top soil. Will have an excavator loader. Raw soil material and finished screen topsoil will be stockpiled on the site, which has always been the case. Additional storage would be roll off dumpsters, which are usually kept off-site. There will be a water truck on site for dust control. There are no utilities or building; no sanitary or electrical. Only used as a contractor’s storage yard.

There will be a 20 foot buffer along the back of the property, which is Tranquility, with various plantings and more arbor vitaes for screening. There is drainage from the City of Milford going through the property. The water draining onto his property will be taken and cleansed and exit onto Shelland, through the Engineering Department.

Various corporations are across the street. There is another property adjacent to this one that is also a contractor’s storage yard. People think it is Mallico’s but it is not. There is another contractor to the west.

**Mr. Sulkis:** Had no comment.

**Mr. Grant:** Will there be a fence along the road to shield the activities from the public? The regulations state there should be screening of some sort.

**Mr. Macaluso:** The only buffer is between the residents, but there is no fence along the street line. If that is a requirement, he will comply.

**Mr. Sulkis:** Described what the regulation for screening is in various sections of the regulations. Screening could be anything from a wall to fencing to landscaping. In the CDD-2 zone and the MCDD there is a requirement that parking that abuts a sidewalk has to be screened. Those particular zones allow a wall, landscaping or fencing.

**Mr. Marlow:** Asked if the top soil would be removed and stockpiled and replaced with a processed material put down for the operation to happen?

**Mr. Macaluso:** All the work has been done. Cannot tell how much topsoil has been removed, but it has pretty much been stripped.

**Mr. Marlow:** Will there be a retail aspect to the operation, such as the sale of top soil?

**Mr. Macalsuo**: On occasion, but people will not be coming in every day.

**Mr. Marlow:** There will be no crushing of any material?

**Mr. Macaluso:** No crushing.

**Mr. Marlow**: Materials will not be transferred from one dumpster to another?

**Mr. Macaluso:** No. He will be renting them out.

**Mr. Mead:** Why are there hours of operation on a Sunday?

**Mr. Macaluso:** He may have to be on site to get things ready, but it will not be the norm.

**Mr.Quish**: Asked what the soil processing would entail.

**Mr. Macaluso:** Processed stone, topsoil. No crushing. Material used for sub base and whatever else that he could use, but no crushing.

**Chairman Sutton:** Opened the hearing to the public and announced the procedure for speaking. Asked if anyone wished to speak in favor of the application (No response)

Anyone wishing to speak in opposition to the application:

**Sharon Chickos, 20 Patridge Lane.** Her property abuts the referenced property. Told of what her property experienced when Mallico took over and took down all the trees. Rock crushing created enormous amounts of dust. There was activity all weekend at very early hours. Dust was incredible. A water truck will not help. In 2002 the Milford Power Plant planted 14 foot trees along her property line to buffer the noise and dust. Since the new person same in and cleared the property, she can see straight through to the power plant again. The petition to get plantings and a berm put in is essential to this project. She wants to know what the exact plantings will be and if they will be adequate to buffer the noise and dust and not see straight through the property. The precedent has been set to have these things in place to have her property protected.

**Attorney Jennifer Mongillo**. Represents Linda and Mike Abdelsayd living at 64 Tranquility Way, which is directly behind the subject lot. Since March of 2016 when Mallico began her clients have not been able to enjoy their home. All City departments were called. All that was done was a Cease and Desist Order, which was completely disregarded. She told her clients to keep a daily log of all activities. There has been property damage; sink holes; noise pollution from 5:00 am into the evening. Heavy equipment is being used. Trees have all removed. Pool is adjacent to the property line so they have not been able to use the pool or the deck, which constantly has a layer of silt. There is a smell of diesel. Area loaded with dust. Vibrations in the home from the movement of the trucks and large equipment. Health Dept. came out and determined the piles were too high. They cannot enjoy their home at all. Their home has been depreciated and they have no quality of life.

Attorney Mongillo submitted letters from surrounding neighbors opposed to the application as well as photographs of the referenced home. Also told how her clients were rudely treated by Mallico’s workers.

**Edward Chickos, 20 Partridge Lane.** Stated he was friends with the Mallicos. Jim Mallico said he would build a berm behind Mr. Chickos’ house. He thinks a berm would hide the equipment. In the winter there is an area where there is 10 feet of visibility on Shelland Street due to the cooling towers from the power plant. He requested a 15-20 foot mound of dirt to shield the applicant’s site from the neighbors. He submitted a plan

depicting the area for the berm.

**Linda Abe, 64 Tranquility Way**. She needs to express how she is living. Since Mallico came in they do not sleep. She has three children. They have allergies. The work is being done directly in her back yard. Dust is unbelievable. Cannot open window. House is a construction zone from 5:00 in the morning to night. She described all the discomfort she is experiencing due to the activity of the adjoining construction property.

**Louis D’Amato, 183 Quarry Road, Milford.** He is speaking in favor of the project but wanted to hear what the opposition had to say. He owns the six acres adjoining this property. He spoke highly of the Mallico’s generational family business. The property is being used for what is allowed in the zone. The residents should have been informed as to what the property could be used for. Some of his properties abut residential properties but he has done the proper thing for the neighbors to live in harmony.

He believes the property should be approved for its use. If the applicant takes the proper precautions there should not be a problem.

**Rebuttal by Applicant:**

**Mr. Macaluso**: All evergreen trees will be planted which will grow 30-40 feet of various species. The homeowners are blaming Mr. Mallico for what the other contractor (adjacent to Mallico), is doing. Mr. Macaluso reached out to the neighbors to meet with them, but they would not meet before the meeting. It was Mallico’s intent to inform the neighbors what would be done. Westcott and Mapes has an excellent reputation and was hired after the violation went into effect. The neighbors are not experiencing the residue from Mallico as he is not working on the property. The other contractor is causing this problem.

Mallico will be a good neighbor and will put in a buffer; landscaping as well, but the neighbors have to say what they really want.

**Mr. Macaluso:** Asked for Board approval tonight or to table it so as to have the opportunity to speak to the neighbors to come up with some concessions.

**Rebuttal by the Public:**

**Mrs. Chico**: Trees will be planted. What about the dust? Will the Mallicos power wash the houses to remove the dust that accumulates? Those are two of her issues. She did not know of a meeting be requested. First time she is hearing of this.

**Rebuttal by Applicant.**

**Mr. Macaluso**: Attorney Win Smith spoke to Attorney Mongillo. He did not know more than one neighbor was involved. The neighbors do not understand what is being considered for the berm with plantings on top of it.

**Discussion:**

**Mr. Dolan to Attorney Mongillo:**  He is aware she does not represent all the neighbors. From his experience it is a good exercise for the Applicant’s representatives to sit down with the neighbors and their representatives to talk about the project and answer any questions they may have. Mr. Dolan asked if there are any objections to sitting down with them and discuss the issues.

**Attorney Mongillo:** Said she received a phone call in the afternoon of the previous day. Her clients wanted to proceed with addressing the Planning and Zoning Board regarding their concerns. It has been said Mallico wishes to be a polite neighbor, but they have not ceased any of their activities. They were also aware not just one neighbor was being affected, but many.

**Mr. Dolan:** Said it would be good for everyone to get together and work out a solution. The hearing could be left open and both parties could discuss their concerns and come back to the Board.

**Chairman Sutton:** Thought it would be good o keep the record open in order for the attorneys and representatives to meet with the neighbors and those represented by counsel to address any concerns.

**Motion the Chair:** To table and keep the hearing open with the suggestion all interested parties meet in order to work out their concerns and come back to the Board in two weeks.

**Second:** By Mr. Marlow.

**Discussion:** None.

**Vote:** All members voted in favor to keep the hearing open for two weeks and revisit the matter after both attorneys, Mr. Macaluso and other interested parties sit down to work something out.

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**Mr. Grant:** Asked that the screening requirements be looked out from all four sides.

**Mr. Macaluso:** Said he would meet with Mr. Sulkis regarding it.

**Mr. Lutz**: Read from the regulations Section 5.14.5 Section 10, regarding the installation of the buffer.

**Mr. Panzella:** Personally thinks the applicant should be approved because the application meets the regulations and they are within their rights. This is similar to the

8-30g applications where the public is opposed to the affordable housing that is allowed to be constructed. If everyone works together toward a solution it will make things much better.

**F. PUBLIC HEARING LEFT OPEN: EXTENDED TO CLOSE BY: 1/9/2017; expires 3/10/2017**

6. **604 NAUGATUCK AVENUE (ZONE CDD-2)** Petition of Maria Torres for Special Permit and Site Plan Review approval to establish a day care center on Map 18, Block 370, Parcel 8, of which Kingdom Life Christian Church, 597 Naugatuck Avenue is the owner.

**Remains Tabled**

**PUBLIC HEARING: CLOSED 11/15/2016; expires 2/23/2017**

7. **14-26 GULF STREET - PHASE 2** **(ZONE SFA-10)** – Petition of Thomas Lynch, Esq. for Special Permit and Site Plan Review approval to construct 7 residential units under CGS 8-30g, on Map 66, Block 813, Parcels 13 and 14, of which Two Ninety Six LLC is the owner.

**Chairman Sutton:** Th hearing has been closed.

**Mr. Sulkis:** Had no comment.

**Motion by the Chair:** To approve the petition as presented.

**Second:** By Mr. Lutz

**Discussion:** None.

**Vote:** Nine members voted in favor of approval. Mr. Quish voted against approval.

**PUBLIC HEARING: CLOSED 11/15/2016; expires 1/27/2017**

8. **PROPOSED TEXT REGULATION CHANGES** –Petition of Kevin Curseaden, Esq. for a change in the Zoning Regulations to: Article III, Sec. 3.1.4.1, Figure 2 (Height); Article XI, Sec. 2, Definitions: Base Flood; Base Flood Elevation; Building Height Within a Flood Hazard Area; Building Height in SFHA Zones AE or VE; Design Flood Elevation; Freeboard; Height Measuring Point.

**Motion:** By Mr. Grant to deny the proposed text regulation change.

**Second:** By Mr. Marlow.

**Mr. Dolan**: Was not present at the previous hearing and abstained from voting.

**Vote:** Nine members voted in favor of denial.

**G. LIAISON REPORTS –** None.

**H. REGULATION SUBCOMMITTEE**  - No report.

1. **APPROVAL OF MINUTES – 11/1/2016 and 11/15/2016**

**Motion:** By Mr. Grant to approve the 11/1/2016 Minutes

**Second: By Mr. Dolan**

**Vote:** All members voted in favor of approval.

**Motion:** By Mr. Grant to approve the 11/15/2016 minutes.

**Second:** By Mr. Marlow

**Vote:** All members voted in favor of approval.

# J. CHAIR’S REPORT – Wished the Board Clerk a happy birthday.

**K. STAFF REPORT**

**Mr. Sulkis:** Went to the Regional Council of Government meeting today with OPM. OPM is beginning the process of updating the State POCD. Our POCD is good until 2022.

**L. ADJOURNMENT**

**Motion:** By Mr. Marlow to adjourn

**Second:** By Mr. Panzella

**Vote:** Allmembers voted to adjourn the meeting at 9:00 pm

The next Planning and Zoning Board meeting will be held on Tuesday December 20, 2016.

Respectfully submitted

By: Phyllis Leggett

Phyllis Leggett, Board Clerk