

## WARREN ZONING BOARD OF REVIEW

### Regular Meeting Minutes

March 16, 2016

The regular meeting of the Warren Zoning Board was called to order at 7:00pm by Chairman S. Calenda. Also present was A. Harrington, A. Ellis, W. B. Holby and 1<sup>st</sup> Alternate M. Emmencker. Vice Chairman P. Attemann was absent.

Approval of Minutes: February 24, 2016 meeting

Motion by A. Harrington seconded by M. Emmencker; the above minutes are accepted. Motion is unanimous

Old Business: None

New Business:

1. Application #16-3; Miller-Abbott House LLC, owner and applicant; 33 Miller St; plat map 2, lot 103; request for a *Special Use Permit* under sections 32-47, 32-77, 32-79 & 32-30 of the *Warren Zoning Ordinance* to allow conversion of a two family dwelling to a multi family residence in an R6 zoning district.

Mr. Ellis asks since the applicant owns two adjoining lots, Plat map 2 Lot 103 the lot on the application and Plat Map 2 Lot 150 which is the rear portion, do they have to include both lots in the application and advertisement? Also, they do not meet the front-yard set-back, do they need to apply for dimensional relief?

Solicitor Skwirz responded if the whole property is being used as one use then the application and advertisement should have included both lots. As for the dimensional relief, as long as they keep the structure that is there and does not alter it or abandon it they do not need dimensional relief.

After much discussion Attorney William Dennis, 576 Metacom Ave., Bristol, RI, representing the applicant Miller-Abbott House LLC states the adjacent lot owned by this same company is no way involved in this zoning petition. The lot that is before you tonight is a sufficient size and dimension where no adjacent properties would be needed for any purpose. Regarding the front yard set-backs, he states that it's non-conforming whether it's a single or multi-family. There are no alterations being made to the exterior of the building, just a few interior alterations.

Attorney Dennis begins the presentation for the special use permit under sections 32-47, 32-77, 32-79 & 32-30 of the Warren Zoning Ordinance to allow conversion of a two family dwelling to a five family residence in a R6 zoning district. The plan is for four one bedroom units and one two bedroom unit. Present here are two principals of this company, Mr. Thomas Principe and Mr. Edward Cox. First standard for a special use permit is that the use is compatible with neighboring land uses, Attorney Dennis presents Exhibit 1 – Table of Properties, Sample Neighboring Properties within the 200' Radius. Mr. Principe points out that they exceed any of the neighboring properties with square footage per unit and smaller occupancy than any on the list. Mr. Calenda asked if the dwelling on the list have off street parking. Mr. Principe states they are mixed but the application tonight provides off street parking. The second standard is the use a nuisance or hazard to the neighborhood, the applicant will provide off street parking. The applicant met with John Massed, Director of Public Works, regarding the curb cuts, he approved the plan.

Mr. Principe states each parking space will meet the dimensional requirements in the zoning ordinance. The house has public sewer and water. The third standard is that the use has to be compatible with the Comprehensive Community Plan, Attorney Dennis presents Exhibit 2 – Land use map, Exhibit 3 – Future Land Use Plan, and Exhibit 4 – Land Use Goals, Policies and Action from the Comprehensive Community Plan, they are compatible with the Comprehensive Community Plan. They will not be applying for Tax Credit. The fourth standard states that the public convenience and welfare will be served. Mr. Principe states the proposed use is to create five market-rate apartments from a two apartment dwelling. The property is located near the waterfront and within walking distance of downtown. They preserved a building that sat in deterioration for years. This application does not maximize the density of a lot of this size and they are not seeking to maximize it.

Mr. Harrington would like some background on Mr. Principe and Mr. Cox. Mr. Principe states they both have been in business for over thirty years, they own several apartment buildings here in town.

Mr. Ellis asks why the rear set-backs are not illustrated in the site plan, for where the dumpster and parking lot are located. Mr. Principe states the eastern side yard is 55 feet, which is the minimum, to the west is 61 feet, the required side yard set-backs is 15 ft., rear yard 30 ft. and front yard is 0. The coverage required is 25 % or less, they are at 12%.

Mr. Ellis asked if he would be willing to replace the fence where the parking lot is with a historical appropriate fence. Mr. Principe response was he would think about it.

Much discussion regarding the dumpster, when it will be picked up, if it would be enclosed, Mr. Principe stated he will make it presentable and it will be picked up weekly between 8am – 12pm.

Applicant portion is closed. Public comment begins.

Many neighbors voiced their concerns, they felt that an owner occupancy building would be better for the town, too many rental properties in that area and renters do not care about the grounds of the property. Many stated that the building lost historic value with the replacement of vinyl windows. The owners did not shovel the sidewalk surrounding the property. The taxes would go up because of the school system.

Keri Cronin, 90 Union St., submitted Exhibit A – Miller Abbot House 1789, which gave history on the property.

Jason Rainone, 21 Miller St., was concerned about the parking situation; parking is a big issue in that neighborhood. He was concern about the visual nuisance the dumpster would have. That if this passed it would add to the traffic on that corner. He stated the lighting in the parking lot would be a nuisance to him and his family. Also, the car lights from the parking area would shine in his house.

Steven Thompson, 51 Broad St., stated he had to call the police on the contractors, they were working late at night and without a Building Permit.

Public comment has closed.

Attorney Dennis makes his closing remarks. Neither of his clients testified that they were historic preservation experts nor did they say they made historic restorations. He points out that Warren has a voluntary Historic District and in the Town Code it states if you wish to demolish a building or alter the historic integrity of the exterior of the building the Building Official with the Planner would refer you to the Voluntary Historic District Committee. Regarding the work at night and without a building permit,

they hired a bad contractor who they dismissed quickly, and the present and past Building Official told them they did not need a building permit. They are here for a special use permit from the Zoning Ordinance and have met each standard. This proposed use is compatible with this neighborhood there are numerous properties with much less land with no off street parking within the 200' radius.

Mr. Principe states that there are a handful of owner occupied houses in the area that could use some serious work. He did his homework before he purchased the property, if he had to restore the windows he wouldn't have purchased it, he knows replacing the windows cost a lot. He also states that he will follow the Zoning Ordinance in regards to the parking area.

Mr. Calenda closes the applicant portion, bringing it back to the board.

Mr. Harrington states that the applicant has given evidence for the four standards and the public has given evidence to some of the standards. The applicant states they are compatible with the neighboring land use, that it is consistent with the neighboring land use and the neighbors feel that it is not compatible it is over burdening an already burdened neighborhood.

Mr. Emmenecker makes a motion to approve application #16-3; Miller-Abbott House LLC, owner and applicant; 33 Miller St; plat map 2, lot 103; request for a Special Use Permit under sections 32-47, 32-77, 32-79 & 32-30 of the Warren Zoning Ordinance to allow conversion of a two family dwelling to a multi family residence in an R6 zoning district.

Mr. Ellis puts the following conditions on the motion: the existing chain link fence that is going to be disturbed by the creation of the new parking area be replaced in its entirety with a new fence that is compatible with the historic character of the property and they should seek an advisory opinion from the Voluntary Historic District Committee on the appropriate fencing materials, secondly, the dumpster should be fully screened from view including appropriate fencing in addition to planting so the dumpster is not visible from any point on the sidewalk or any point of the neighboring properties. Third that the storm water management of the parking area be fully in conformance with the building regulations that are administered by the Building Official. Fourth that the servicing of the dumpster be limited to approximately 8 am – 4 pm. Fifth all building and fire codes that are applicable to the property be thoroughly adhere to with the development of this property. Next that all Town and Zoning ordinances be followed including specifically the requirement that the property owner remove snow from all sidewalks abutting the property. Next if illumination is being provided in the parking area that the lighting be compatible with the standards indicated in the Warren Zoning Ordinance and finally that the development of the parking area be provided with the type of planting islands and landscaping that are in conformance with the Warren Zoning Ordinance. Mr. Calenda adds to the parking plan that any off lights shined by vehicles if it was pointing in the direction of another residence that any and all necessary planting do the very best to curb that to the best ability of the applicant.

Mr. Calenda states the finding of facts as far as it being compatible with the neighboring land use the applicant has showed with his exhibits that there are several residence already in the neighborhood that are at the same amount or exceed the amount that the applicant is looking for in his application of five units it would be compatible with the neighboring land use. Finding of fact for whether or not it would create a nuisance or hazard to the neighborhood much testimony has been brought up on sidewalk care and maintenance the applicant has brought up that in the future that the sidewalk care and maintenance will be done with the very best of his ability and according to the Town Ordinance in specific to the snow removal he would not be creating a nuisance or hazard to the neighborhood. In regards to being compatible with the Comprehensive Plan the applicant has given testimony on the historical aspect of the Comprehensive plan and the applicant did testify the historic aspect would have been triggered doing a demolition or changing

the structure it was not the case with this property they did a renovation, remodel inside only and according to the applicant they did not touch the outside except the replacement of windows which was evidentially permitted. On the finding of fact for the proposed use service of public convenience and welfare the applicant provided testimony on how their parking plan is going to provide all off street parking for their residence they are not going to be burdening the density of the population with cars on the road way. He also conceded whatever parking plan is required by the Building Official indicates on the structure he would comply to with one hundred percent.

Mr. Harrington seconds the motion, motion fails, 0 ayes, 6 nays unanimous

Mr. Calenda states that the motion to approve application 16-3 has been unanimously denied is there a finding of fact is to why the motion failed.

Mr. Harrington with regards to the four elements the applicant has the burden of convincing us of each of those elements the mere fact that they have presided some creditable evidence on each of those elements does not compel us to make a finding, for example is this compatible with the neighboring land use, from the evidence that he heard he is not convinced that adding five units in an already burden neighborhood makes it compatible with the neighboring land use. Will it create a nuisance or a hazard in the neighborhood? The applicant has the burden to prove that it will not be a nuisance and he is not convinced from the past activities that substantially expanding the use in the property even though it has a substantial land area will not create a hazard in the neighborhood. There is a potential of adding traffic. Is it compatible with the Comprehensive Plan? We have evidence that the re use of this property into a multi-family property is compatible with the Comprehensive Plan. He thinks they don't have anything to show that it is consist with the plan. We acknowledge the historical character of this area, this has been a single or two family house, substantially expanding it to a five family house and substantially expanding a fragile piece of property is a use that is not consist with the Comprehensive Plan. For the same reason the public convenience and welfare are not going to be served by the substantial expansion of a very admittedly lawful use.

Mr. Ellis would like to amend Mr. Harrington's finding that adding three more units was not compatible with the land use and also the proposal demonstrates some elements of compatibility with the Comprehensive Plan. It does not satisfy the element of the Comprehensive Plan speaking to specifically the preservation of structures of historic presents in our town.

Mr. Ellis seconds the findings, motion passes unanimous

2. Application#16-4; 450 Main Street LLC, owner and applicant; 442 Main St / 31 Child St; plat map 4, lots 64, 64A, 65 & 66; request for a *Special Use Permit* under section 32-55 of the *Warren Zoning Ordinance* to allow indoor storage of non-flammable and non-explosive materials in a VB zoning district.

Applicant asked for a continuance, board accepts continued to next scheduled meeting.

Adjourn:

Motion by Mr. Harrington seconded by Mr. Ellis; the meeting is adjourned at 10:05 pm Motion is unanimous.

Attest:

Maya M. Gamon  
Pro temp

Exhibit 1

TABLE OF PROPERTIES

SAMPLE NEIGHBORING PROPERTIES WITHIN THE 200' RADIUS

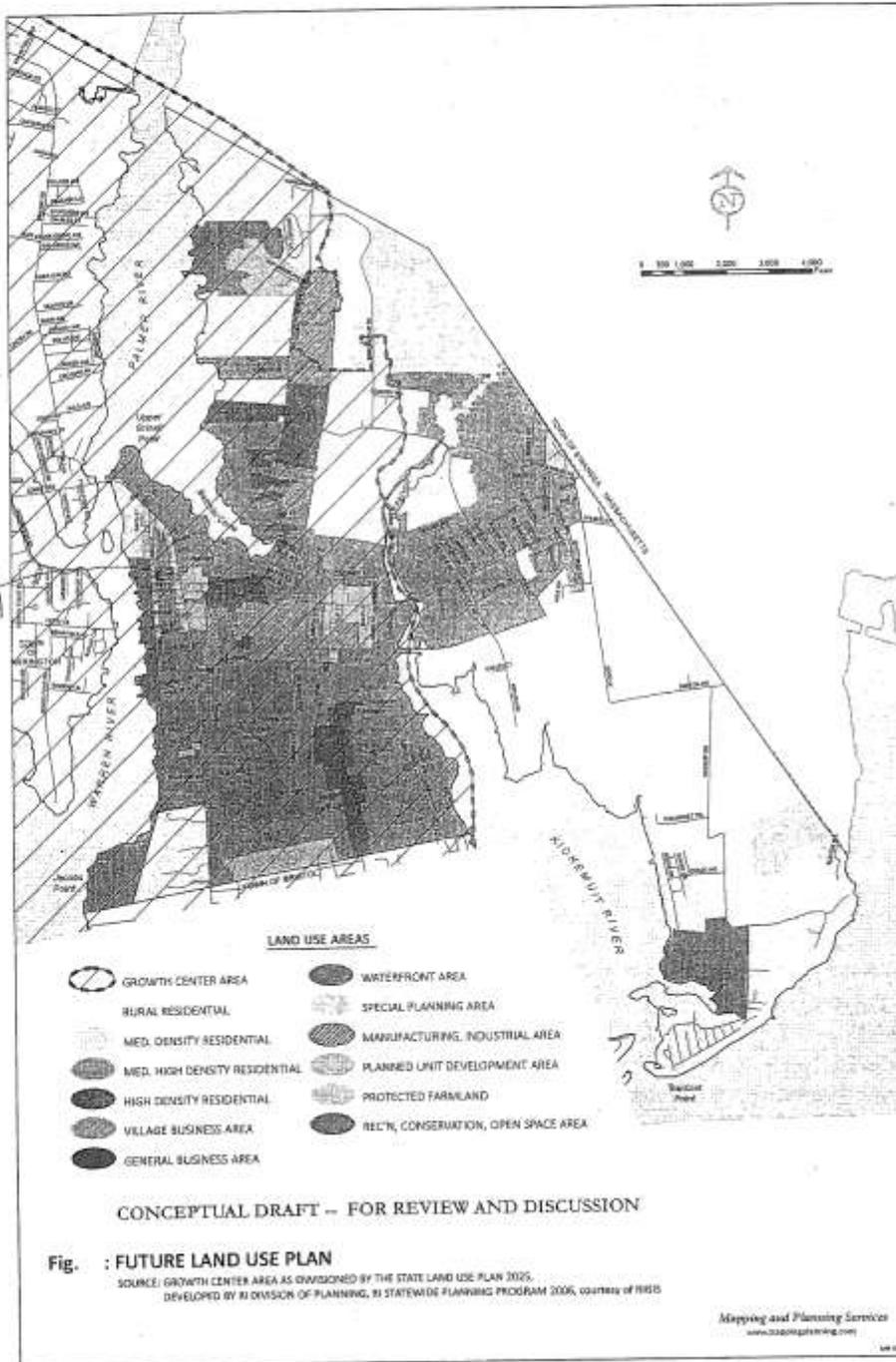
<u>Address</u>	<u>Number of Dwelling Units</u>	<u>Sq Ft/Area Per Dwelling Unit</u>
<b>33 MILLER STREET (Subject)</b>	<b>5</b>	<b>4,548 Each</b>
45 Miller Street	6	846 each
347 Main Street	6	2,708 each
26 Miller Street	3	1,347 each
9 Miller Street	3	1,368 each
28 Miller Street	3	1,552 each
160 Water Street	4	704 each
49 Baker Street	4	722 each
198 Water Street	3	557 each
43 Miller Street	2	3,222 each
236 Water Street	4	1,225 each
50 Miller Street	3	2,672 each



HIGH  
Density

Exhibit 3

High  
Density



# LAND USE GOALS, POLICIES AND ACTIONS

Exhibit 4

1.5 Pursue open space acquisition wherever available and subject to funding.

- Lead: Department of Planning and Community Development
- Resources: Town Council, Conservation Commission

1.6 Promote and accelerate adaptive reuse of industrial buildings by amending the Zoning Ordinance to allow a wider range of uses by right that are compatible with surrounding neighborhoods, circulation patterns, available service, land use patterns, and scale.

- Lead: Department of Planning and Community Development, Zoning Officer, Planning Board and Town Council
- Resources: Property owners

1.7 Develop and pursue enactment of conservation subdivision regulations to minimize the environmental and aesthetic impacts of residential development and conserve ecologically important land.

- Lead: Department of Planning and Community Development, Conservation Commission
- Resources: Planning Board and Town Council

1.8 Develop and maintain a list of specifically undesired uses, to effectively allow a wider range of uses and facilitate greater flexibility and creativity in the reuse of mill buildings and other large structures. Consider a pre-approved list of allowable uses subject to performance standards and space requirements.

- Lead: Department of Planning and Community Development, Planning Board, Town Council
- Resources: Mill owners

Policy 2: Preserve the scale of the Town as characterized by the size and massing of its buildings, pattern of contained developed areas separated by relatively open spaces, centralized village with its mix of commercial and municipal uses, and historic district.

 2.1 Maintain zoning densities to ensure the current scale of the Town.

- Lead: Planning Board and Town Council
- Resources: Department of Planning and Community Development

2.2 Designate the Metacom Avenue, Child Street, Market Street, Main Street and Water Street as a growth center as defined by Statewide Planning Land Use 2025

# LAND USE GOALS, POLICIES AND ACTIONS

Episode 4  
Cont.

- Lead: Department of Planning and Community Development, Conservation Commission, Town Council,
- Resources: Planning Board, Harbor Commission

5.2 Amend the subdivision development review regulations to require consideration of scenic views to and across the water and of the Town's skyline as seen from the water, as applicable.

Policy 6: Create more specific standards for private maintenance of land holdings, including lawn maintenance and removal of trash, dormant automobiles and other potential eyesores and enforcement mechanisms.

6.1 Aggressively enforce anti-dumping and all building codes and zoning ordinances.

- Lead: Building and Zoning Official, Police Department
- Resources: Town Manager, Town Council

6.2 Inventory nuisance properties and aggressively enforce regulations and codes governing property upkeep, maintenance and neglect.

- Lead: Town Council, , Building Official, Police Department
- Resources: Economic Development Board

Policy 7: Provide guidelines and incentives (such as more flexible use allowances) to facilitate revitalization of commercial and industrial centers and improve town image.

7.1 Work to eliminate billboards on a town-wide basis.

- Lead: Town Council, Planning Board
- Resources: Economic Development Board, Solicitor's Office

7.2 Establish site plan review procedures with specific landscape, design and performance standards for construction and upgrading of commercial and industrial sites.

- Lead: Town Council, Planning Board

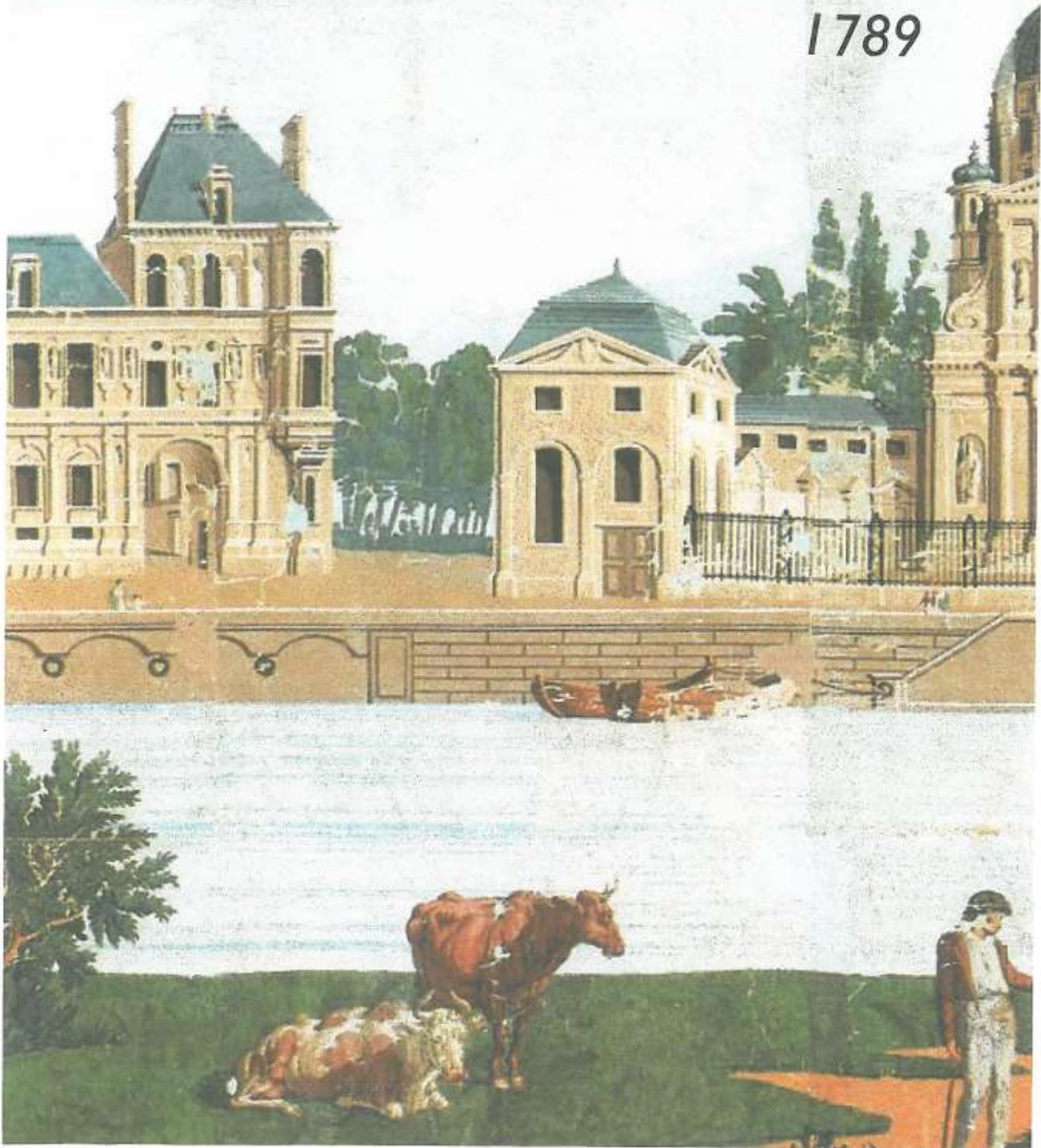
→ Policy 8: Establish and update procedures that will ensure a diverse mix of housing for all economic levels in accordance with affordable housing goals established in the Housing Element.

→ 8.1 Encourage reuse of older buildings through conversion of suitable structures to multi-unit housing; such units should meet applicable codes and be serviced by necessary utilities. Investigate off-site parking for downtown units. If it is reinstated, encourage use of the Rhode Island Historic Tax Credit in restoration projects.

Exhibit 7 A

# MILLER ABBOT HOUSE

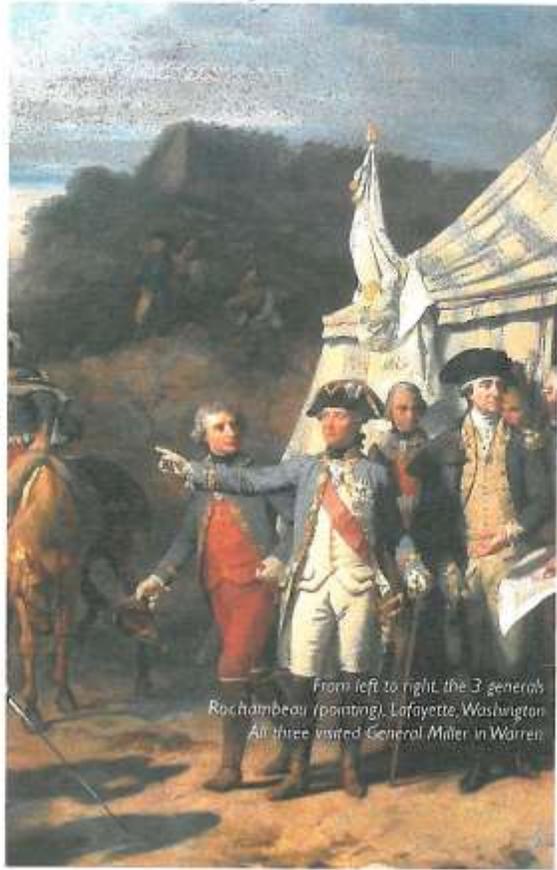
1789



In a town of historically important sites and buildings, the Miller Abbot house stands in a category of its own. Few residents of Warren have impacted national or international history, but two such figures lived in this house: General Nathan Miller and Commodore Joel Abbot.

General Nathan Miller served on the Continental Congress for two terms, helping to govern the United States during the Revolutionary War. He was also brigadier general of the Rhode Island Militia for Newport and Bristol Counties from 1772-1778, and served as deputy in the Rhode Island State Assembly for six years. During the Revolutionary War, his home hosted George Washington, the Marquis de Lafayette, and the Comte de Rochambeau, three of the figures most responsible for the existence of this country today. He built the house at 33 Miller in 1789.

In 1847 the house was purchased by Commodore Joel Abbot, who began his military career during the War of 1812; by 1818 he had so distinguished himself that Abbot was made captain of the Mariana, a captured pirate ship. In 1839, he was given command of the Boston Navy Yard, and in 1853, Commodore Abbot commanded the U.S.S. Macedonia in the fleet of ships Admiral Perry led to open Japan to trade with the West.



From left to right, the 3 generals Rochambeau (painting), Lafayette, Washington. All three visited General Miller in Warren.



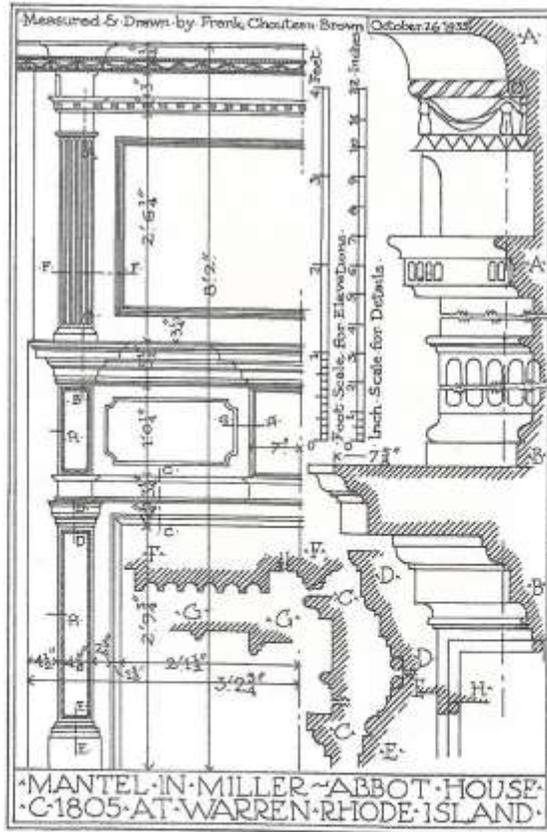
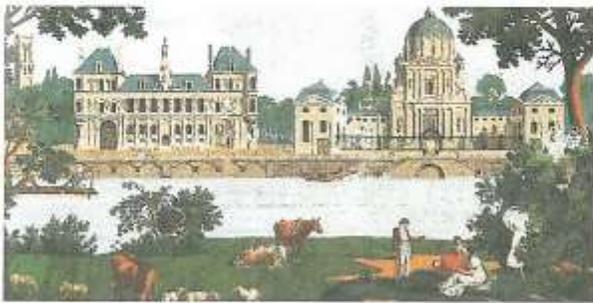
Portraits of Commodore Abbot and his son, painted in Japan by imperial court painters, 1853.



Photograph of Commodore Abbot



The house was built and improved to reflect the importance of its inhabitants. Expanded to the West in 1802 and throughout the 19th century, it grew to 27 rooms. These were ornamented with woodwork so fine that it was measured and beautifully drawn by the noted architect Frank Chouteau Brown; image shown at right. This woodwork is considered some of the best not only in Rhode Island but all of New England. Wallpaper by Dufour et Cie was ordered from Paris and installed c.1815, in a panoramic pattern named "Monuments of Paris;" hundreds of blocks were used to create this paper, and it is so rare and precious that one of the only complete sets is in the Metropolitan Museum of Art in New York. Another is held at the Victoria & Albert in London. A detail of this pattern is shown below and on the title page.



The grounds were maintained in a continuous partier of boxwood and specimen plantings between Wheaton House directly to the North and the Miller Abbot to the South. The monumental yew in the Southwest quadrant of the grounds is said to have been brought as a cutting from England in the 18th century, and is considered one of the oldest of the species in the state.

The granite and cast iron fence is identical to one once surrounding the now lost Waterman House on Water Street, and similar to those surrounding the Baptist Church and St. Mark's Episcopal; such fences were expensive and reserved for public buildings and only the finest private residences. The Miller Abbot is one of two private homes in the Waterfront Historic District left with such a fence, the other being the damaged example directly to the North at Wheaton House. The wooden fence is exceptional in its detailing and in that it survives to the present day.



**Warren Waterfront Historic District National Register Application**

"General Nathan Miller House 1789, 1802, mid-19th century: A fine, substantial 2 3/4-story, 5-bay-façade, paired interior chimney Federal house with recessed center entrance framed by pedimented frame on the façade and sidelights and transom light within, projecting lintels over the windows, 3 pedimented dormers above the façade, and an extensive ell at the rear. Built for a hero of the Revolutionary War, it devolved through marriage to Commodore Joel Abbott, who accompanied Admiral Mathew Perry to open Japan to western trade in the mid 19th century. Set on an ample and once lavishly landscaped lot enclosed by handsome picket and cast-iron fences, this commands a presence on the street and in the town consistent with its architectural and historical pedigree."

**200th Anniversary of Warren, RI**

"Regarding the Miller-Abbot house, 33 Miller Street ... [as a prominent example], the 'Monograph Series' of 'Some Old Houses of Warren, R.I.', by J. Fenimore Russell, is quoted "One of the most ingenious and distinctive local developments in the architecture of Warren, R.I. is the type of mantle whose variations and growth reached perhaps its final fulfillment in the Waterman house. The elaboration of cutting that is particularly exhibited in the interior details and mantles of this district -- must express something of the widespread skill in the molding and cutting of wood by the many local carpenters that were probably developed in this region by the shipbuilding industry on the shores of the Narragansett Bay."

"These 'Monographs' include fine photographs of interior details of the Miller-Abbot house."

"At 33 Miller Street stands the residence of Mrs. Charles W. Abbot, built in 1789 by a Mr. Miller and added to in 1802, and especially noted in the Warren 'Monograph' for its beautiful and interesting mantels, stairways, etc.

In later years it was enlarged in the rear to the present 27-room house. Here lived Commodore Joel Abbot and his son Charles W. Abbot, Sr., who had a long and active career in the navy,—from 1853, when he accompanied his father, Commodore Abbot to Japan at the time of Admiral Parry's visit,—up through and beyond the Civil War, and was retired in 1891, with the rank of Captain. During the latter period of his service he was Pay Director and in 1904 he was given the rank of Rear Admiral on the retired list. Gen. Charles W. Abbot, Jr., noted army officer and prominent in Warren affairs, also lived in this house."

**Rhode Island: An Historical Guide**

"Miller Abbott House, 33 Miller Street. This house was started in 1789 by the Revolutionary War hero Nathan Miller. An addition to the West c. 1802 accounts for the uneven window placement. The door was recessed in the Victorian period, and the dormers, with the disproportionately heavy pediments, are a 20th century addition. The Abbott family acquired the house in 1847. Commodore Joel Abbott was Admiral Matthew C. Perry's second-in-command on the historic trip to Japan to Western trade in 1853-54. Joel's son Charles accompanied him on that trip and later fought in the civil war!"

**Warren 250th Anniversary Commemorative Book**

"Erected for the Revolutionary War hero Nathan Miller in 1789 and expanded in 1802, this residence was finished with a finely detailed staircase and floor-to-ceiling height mantles. A Federal-era embellishment was the installation of French scenic wallpaper designed by Joseph Dufour in the 'Monuments of Paris' design.

The general's daughter, Abigail, married Charles Wheaton on ropewalk fame. Their daughter Laura married Joel Abbot in 1825. It was during the 19th century that the legendary gardens joined with those of the Wheaton Homestead to the north at the southeast corner of Union and Liberty streets. The matching cast iron fencing likely also dates from the mid 19th century. Copper beech trees were planted at this time.

In 1853, Commodore Joel Abbot with his son Charles Sr. accompanied Admiral Matthew F. Perry on his historic trip to open Japan to trade. During the Civil War, Charles Abbot Sr. participated in the blockading of Southern ports and in the capture of New Orleans. The house was inherited by his son, Charles Jr., and then by Grace Abbot Fletcher.

Through the years, additions were made to the rear resulting in a house of 27 rooms. Outbuildings were erected and a dwelling at the corner of Miller and Union disappeared. Dormer windows and Gothic Revival roof trim were added during the latter part of the 19th century -- this latter element succumbing to winter gales a century later.

From 1955, this was also the home of well-liked businessman Amon Jamiel, proprietor of the popular hardware store known as "The House of a Million Items." Today his widow, Marcelle Jamiel, lives in the large homestead."