



# *Town of Middletown*

TOWN HALL                      350 EAST MAIN ROAD  
MIDDLETOWN, RHODE ISLAND 02842

## **Minutes**

### ***Of the meeting of Monday, March 8, 2010 Middletown, RI Conservation Commission***

**Present:** Gary Paquette (Chair), Peter Tarpgaard, Robert Johnson, Stan Ehrlich, Bruce Long, Audrey Rearick, Liaison to Planning Board

**Absent:** Betty Owen

**Guests:** Peter Gallipeau (Applicant), David Martland (Counsel for Applicant), Lyn Small (Northeast Engineers), Vernon Gorton (Counsel for the Paradise Valley Homeowners Association (PVHA)), Kamal Hingorany (Narragansett Engineering representing PVHA)

**Old Business:** Case 2010-01, Petition of Mr. Peter Gallipeau for a Special Use Permit from Article 11, Section 1103 to construct single family dwellings on proposed subdivision lots 2, 8, 9, 10, and 11 of the Saltwood Farm subdivision. These lots are located on Mansfield mucky silt loam (Ma) and therefore are within Zone 1 of the Watershed Protection District.

#### **New Business:**

The meeting was called to order by the chairperson at 5:30 PM. A quorum of members was present.

A motion was made by the chairman to waive reading of the minutes of the previous meeting and to accept them as published to the Rhode Island Secretary of State's Open Meeting website. The motion carried unanimously.

The discussion of the proposed Saltwood Farm development began with a presentation by the applicant, describing the changes to the plans that had occurred since the last meeting in February. In the new plans, the individually-owned sewer pumping systems have been removed and replaced with a gravity flow system. Additional stormwater abatement features have been added in the northwest and southwest portions of the development in the form of shallow (<18") retention ponds. In addition, the previously planned detention pond has been expanded to accommodate the runoff from a 100 year storm (7"-9"/24hr). The previously proposed shallow stormwater swales along the eastern and



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southern borders of the property and along the proposed driveway will remain. The existing detention pond will also remain and will be maintained however it will not be considered to be a part of the stormwater abatement system and its contribution was not used in the stormwater calculations submitted to the Town Engineer. The proposed private road, Cross Country Lane has been upgraded to a level that will support the equipment necessary for the town to service the catch basin in the stormwater sewer at the western end of the road.

There was some discussion about the wisdom of building homes on the relatively impermeable soil types (Stissing and Mansfield) that exist in the lots in question however it was the opinion of the majority of the Commission that the addition of impermeable surfaces to these already impermeable areas would not significantly contribute to the stormwater runoff conditions as they currently exist pre-development. Mr. Hingorany pointed out that the data contained in the Soil Survey of Rhode Island Manual were inferred from soil samples taken early in the 20<sup>th</sup> century at sporadic locations and that the soil types depicted in the manual were estimated and that the actual range of soil types could differ widely and that the only way to assess the actual conditions would be to perform another, more detailed soil survey. Mr. Martland pointed out that even though this assertion could be true, the Soil Survey Manual was the document of record for zoning determinations as the regulations stand now and that to require developers to perform soil surveys would impose an undue burden in future developments.

The issue of the driveway splitting the open space was raised. It was pointed out in a letter from the Town Planner that driveways are permitted in open spaces provided that their use allowed maintenance of the open spaces. Mr. Gallipeau pointed out that the driveway, in addition to providing access to his personal home would also provide access to several of the stormwater abatement features and would also be used as a walking path for other homeowners in the development.

Mr. Long raised the question of how the Town could insure that the stormwater abatement system would be maintained and would work as designed. Mr. Martland stated that the requirement to maintain such systems was already included in the existing development regulations and that no additional ordinances were needed. Also, any stormwater features that were added to the public sewer system as a result of this development would automatically revert to the town and would then become the responsibility of the town for the maintenance of these structures. It is currently the responsibility of the Building Official to insure that private stormwater abatement systems are maintained in



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functioning condition but due to manpower limitations enforcement of these requirements is often neglected until action is triggered by a citizen's formal complaint. It was agreed by the Commission that this was a weak point in the town land use regulation process and there was room for improvement.

Mr. Long stated for the record that he objected to the permitting of any development within Zone 1 of the WPD as recommended by the Middletown Comprehensive Plan. Other members of the Commission agreed but also felt that the precedent set by the approval of other developments in the local area within Zone 1 would make it difficult to justify denying this application.

Following the conclusion of these discussions, a motion was made by the Chairman and seconded by Mr. Johnson to draft a letter to the Building Official and Town Planner recommending approval of this application with the following conditions:

1. Verbiage would be added as appropriate for developments within Zone 1 of the Watershed Protection District requiring the use of best engineering practices to minimize soil erosion during construction, use of only clean fill and materials, removal of erosion controls at the conclusion of construction, and minimizing the use of harmful lawn and household chemicals within Zone 1.
2. That the applicant be encouraged to use only permeable materials in the construction of roads and/or driveways.
3. That the applicant be required to commission an annual study of the effectiveness of the stormwater abatement system by a qualified engineer and that a letter be submitted to the Building Official certifying that the system was performing as it was designed.
4. That the applicant be required to install some mechanism so that it will be clear to all parties that the open space depicted on the submitted site plans is to remain open space in perpetuity and that the open space was for the use of all homeowners in the development and no part of the open space is to be appropriated by any individual or group of individuals for their exclusive use.
5. That the applicant be required to utilize some sort of non-toxic mosquito control on any standing water in the retention ponds.

A vote was cast and the motion was approved by a vote of 4 to 1 with Messrs. Paquette, Ehrlich, Johnson, and Tarpgaard voting in the affirmative and Mr. Long voting in the negative.

