

**Town of Middletown
Planning Department**

350 East Main Rd., Middletown RI 02842 (401) 849-4027

PLANNING BOARD MINUTES

September 14, 2005

Board members present:

Hedy Bennett, Chair Ron Wolanski, Town Planner

Jan Eckhart, Secretary Vernon Gorton, Town Solicitor

David Lawrence

Richard Adams

Colleen Aull

Audrey Rearick

The meeting was called to order at 6:30 pm.

The minutes of the special meeting and regular meeting of August 10, 2005 were reviewed.

Motion by Ms. Rearick, seconded by Mr. Adams to approve the minutes. Vote: 6-0-0.

Sitting as Planning Board

Old Business

1. John E. Utz Proposed 2-lot subdivision, Plat 127, Lot 1, Paradise Ave. Request for Preliminary and Final plan approval

The applicant, John Utz, was present.

Mr. Wolanski stated that the plans had been revised to address comments from the Town Engineer and DPW Director. The Town Engineer had not yet provided comments on the revised plans, including drainage improvements. The items yet to be approved were discussed.

Ms. Bennett requested that, in addition to the need for review of the revised plans by the Town Engineer, a note should be added to the plans to reference the conditions place on the Special Use Permit that was granted by the Zoning Board of Review.

Mr. Utz stated that a note has been added to the plan.

Mr. Gorton and Mr. Hayes suggested that the note refer specifically to the Zoning Board decision.

Mr. Utz agreed to have the note added to the plan.

Ms. Bennett referenced the recommended condition requiring the installation granite markers along the wetland buffer boundary.

Mr. Wolanski stated that the final plan must also be stamped by a registered surveyor prior to recording.

Motion by Ms. Rearick, seconded by Ms. Aull, to grant preliminary and final approval of the subdivision plan subject to the following conditions:

- 2. Prior to recording, the plan must be stamped by a registered land surveyor.**
- 3. Prior to recording, a note must be added to the plan referencing the decision and conditions of the Zoning Board of Review for the special use permit granted to allow two dwellings on lot 1.**
- 4. Prior to recording the applicant shall address any comments of the Town Engineer with regard to site storm drainage improvements, or other engineering issues.**
- 5. Prior to recording, permanent markers must be placed on the 50' wetland buffer boundary as depicted on the plan. The markers shall be of granite extending to at least 24 inches above grade and permanently labeled "RIDEM Buffer Zone".**

Vote: 7-0-0

2. Paul & Andrea Borges, proposed administrative subdivision, Vaucluse Ave. Plat 129, Lots 200 & 202.

Attorney Patrick Hayes, Jr. represented the applicant. He described the current lot configuration and explained the desire to adjust lot lines in order to provide for a more regular configuration. Due to high water table, the land to be included in proposed lot 202 has not been approved for development. There are no plans for development at this time. The earlier proposal for a minor subdivision with a paper road does not make sense.

Ms. Bennett stated that there are two conforming lots currently, and lot lines could be reconfigured in a way that resulted in two conforming lots, even without the paper road.

Ms. Borges stated that Lot 202 is owned by her mother. The proposed

plan would square off the lots and recognize the existing usage of land, and would allow for future sale.

Ms. Bennett stated that she is not in favor creating nonconforming lots.

Motion by Mr. Eckhart, seconded by Mr. Adams, to grant conditional approval of the administrative subdivision subject to the required relief from Zoning Ordinance being granted by the Zoning Board of Review. Vote: 4-2-0, with Ms. Bennett and Ms. Aull voting in opposition.

3. Paul & Andrea Borges, proposed minor subdivision with creation of a new road. Vaucluse Ave. Plat 129, Lots 200 & 202.

Attorney Patrick Hayes, Jr. represented the applicant. He requested that the application for minor subdivision be withdrawn.

By consensus the Board approved the request and the application was withdrawn.

4. Segerson, Greene Lane, Proposed 5-lot subdivision, Plat 105, Lots 4B & 4C, Final Plan – Request for 60-day extension of subdivision approval.

Attorney David Martland, representing the applicant, requested that the subdivision approval be extend for a period of sixty days. The applicant is continuing work to address the conditions of the subdivision approval.

Motion by Ms. Rearick, seconded by Mr. Eckhart, to approved a 60-day extension of the subdivision approval. Vote: 6-0-0.

5. Bancroft Partners, LLC , Proposed Administrative Subdivision, Tuckerman Ave. (Plat 122, Lots 123 & 127)- Request for 180-day

extension of subdivision approval.

Attorney David Martland, representing the applicant, requested that the subdivision approval be extend for a period of 180 days. The applicant is continuing work to address remaining legal issues prior to recording the plan.

Motion by Ms. Aull, seconded by Ms. Rearick, to approved a 180-day extension of the subdivision approval. Vote: 6-0-0.

6. Request of the Town Council for advisory opinion on a request of Craig A. Paris to re-zone AP 108SW, Lots 39 & 40, from R-10A to GBA Attorney Gregory Klaiber represented the proponent.

Mr. Wolanski stated the Town Council had adopted the amendment to the comprehensive plan future land use plan to re-designate the proponent's property, as well as other properties along the east side of West Main Rd. for limited and office business development, rather than general business development. The Town must now rezone the subject properties to be consistent with the comprehensive plan designation. The Board had previously discussed a designation of office business.

Mr. Klaiber stated that his client would be happy with a zoning designation of office business.

Ms. Bennett stated that the issues relating to the potential zoning districts had been discussed during the meetings regarding the comprehensive plan amendment. She suggested that the Board consider a recommendation to the Town Council to rezone the properties to office business.

Mr. Lawrence asked about the impacts on uses that would require a

special use permit if the zoning were changes.

Mr. Gorton stated that the existing uses would be allowed to continue. A special use permit would be required for expansion of nonconforming uses.

Motion by Mr. Adams, seconded by Ms. Aull, to recommend that the following properties be rezoned to office business – traffic sensitive (OBA):

Assessor's Plat 108SW, Lots 24, 35, 36, 37, 38, 39, 40, 41, 81, 101, 103, 104, 105, 136, 138, 148.

Assessor's Plat 108, Lots 33, 45.

Assessor's Plat 108NW, Lots 272, 273, 281, 283, 284, 285, 286, 287, 292, 293, 350.

Vote: 6-0-0

7. Request of Attorney Patrick Hayes on behalf of his client for a change in zoning designation for property consisting of a portion of Lot 14, AP 112 from residential R-20A to general business (GB).

Mr. Hayes requested a continuance on this matter, as his client was currently having the required testing done.

Motion by Mr. Weber, seconded by Ms. Rearick to continue this matter to the October 12, 2005 Planning Board Meeting, Vote: 6-0-0

8. Request of the Zoning Board of Review for an advisory recommendation on a special use permit application under Article 14, Motels & Hotels, for the expansion of an existing hotel located at 855 West Main Rd., Plat 107NE, Lot 451.

Attorney Patrick Hayes, Jr. represented the applicant.

Mr. Wolanski stated that Keith Bloomer of Pare Engineering had reviewed the latest plans, received by the Town on September 9th.

Mr. Bloomer stated that all issues identified in his prior reviews had been addressed. The revised plan set is acceptable. He concurs with the findings of the applicant's traffic study, which indicates that the addition would not result in a significant traffic impact. Accident rates at the entrance intersection are low. A RIDOT physical alteration permit is required. The drainage plan is acceptable, but will also have to be approved by RIDOT. Fire Department access is acceptable. RIDEM wetlands permitting will likely not be required.

Mr. Bloomer stated that one item of concern is that sewer flow calculations for the addition were based on 90% occupancy, rather than 100%. If 100% occupancy is assumed, daily flow is anticipated to be 7,590 gallons per day. Therefore, the sewer overflow tank requested by the DPW Director should be sized to accommodate at least 7,590 gallons.

Mr. Hayes stated that his client agrees to the installation of the sewage tank to accommodate at least 7,590 gallons.

Motion by Ms. Rearick, seconded by Mr. Lawrence to forward a positive recommendation to the Zoning Board of Review on the proposed addition, subject to the following condition:

As requested by the DPW Director, the applicant should be required to install a storage tank to accommodate the estimated 24-hour sewer flow resulting from the proposed addition. This flow has been estimated to be 7,590 gallons per day.

Vote: 6-0-0

9. Discussion of proposed amendments to the Middletown Zoning Ordinance and Subdivision Regulations regarding storm water drainage control and treatment.

Ms. Bennett asked the Town Solicitor if had had a chance to review the draft ordinance language.

Mr. Gorton stated that he had reviewed the draft language. He recommended that the Board review the draft.

Motion by Ms. Aull, seconded by Ms. Rearick, to continue discussion of this item to the October 12, 2005 Planning Board meeting. Vote: 6-0-0.

10. Review proposed amendments to Article 7 of the Subdivision Rules and Regulations regarding policies related to guarantees of performance.

Mr. Wolanski stated that he had drafted amendments recommended by the Roads & Utilities Advisory Committee.

Ms. Bennett stated that she is in favor of the amendments.

Mr. Wolanski stated that if the Board wishes to proceed with adoption, a public hearing must held be the Board. If approved, the amendments must be sent to the Town Council for final approval.

Motion by Mr. Adams, seconded by Ms. Aull, to schedule a public hearing to be held during the Boards regular meeting on October 12, 2005. Vote 6-0-0.

New Business

11. Keith Coristine, Green End Ave., Proposed 2-lot subdivision, Plat 125, Lot 66, Final Plan

Attorney David Martland represented the applicant. He stated that the Town Solicitor had been provided with the required easement documents.

Mr. Gorton stated that he had not received all required documents.

Mr. Wolanski stated that the overhead utilities to serve the existing building on proposed lot 2 must be contained within easements.

Mr. Martland stated that overhead utilities would be relocated to serve lot 2 directly from the public right-of-way.

Mr. Eckhart asked about the potential for a future subdivision of Lot 2.

Mr. Martland stated that due to current zoning requirements, a subdivision of lot 2 would not be permitted.

Motion by Mr. Adams, seconded by Ms. Rearick, to grant final subdivision approval subject to the following conditions:

1. Prior to recording, all easement documents for the proposed easements as shown on the approved plan must be reviewed and approved by the Town Solicitor.

2. All overhead utilities to serve proposed lot 2 shall enter the lot directly from the public right-of-way unless appropriate easements are provided across adjacent private properties.

Vote: 6-0-0

12. James Scribner, Chases Lane, Proposed 2-lot subdivision, Plat 106, Lot 6A, Preliminary Plan

Attorney David Martland, representing the applicant, described the

proposal, including the need for frontage variance to allow for the creation of a lot to the rear of the existing dwelling. The property was first thought to have adequate frontage on Gate 17 access road to accommodate creation of a new lot, however, upon further review it was determine that the state-owned portion of the Gate 17 access road extends from West Main Rd. to Chases Lane. The roadway beyond Chases Lane is owned by the US Navy and is therefore not considered to be a public road.

Ms. Bennett express concern regarding creation of new lots that do not meet the requirements of the zoning ordinance.

There was discussion of the Planning Board's options, including the possibility of granting conditional preliminary approval subject to the granting of the required variance. The Board could offer an opinion to the Zoning Board regarding the variance request.

Mr. Wolanski stated that if the Board were to deny the application, the applicant could choose to appeal the denial to the Zoning Board. If the appeal were granted, the applicant would not be required to return to the Planning Board for review of the plan.

Ms. Bennett asked if the current preliminary plan met the requirements of the subdivision regulations.

Mr. Wolanski stated that there are a few minor deficiencies.

Motion by Ms. Bennett, seconded by Ms. Rearick, to deny the subdivision application. Vote: 1-5-0, with Ms. Rearick, Ms. Aull, Mr. Adams, Mr. Lawrence and Mr. Eckhart voting opposition.

By consensus the Board continued discussion of the item to the Planning Board's October 12, 2005 meeting. A subcommittee was

established to conduct a site visit on September 21st.

13. Omni Land Co., West Main Rd., Proposed 9-lot subdivision Plat 111, Lots 8, 9, 9A, 10, Final Plan

Attorney David Martland represented the applicant.

Mr. Wolanski stated that the application remained incomplete. The Board has not received a recommendation from the Town Engineer on the cost estimates prepared by the applicant for the completion of improvements. The Town Engineer must also provided comments on the final plan set.

Mr. Martland stated that the latest plans and cost estimates were submitted to the Town Engineer on August 24th. He requested that final approval be granted subject to the required reviews by the Town Engineer.

Mr. Gorton stated that he had some proposed changes to the easement documents that had been provided.

Ms. Bennett asked if the Landscaping Plan had been amended as previously requested.

Paul Lamond stated the revised plan is acceptable to the Tree Commission.

Motion by Ms. Rearick, seconded by Ms. Aull, to grant final approval of the subdivision plan subject to the following conditions:

1. Documents relating to the maintenance of storm drainage facilities and ownership of such facilities, including easements and deed restrictions, must be provided to and approved by the Town Solicitor, and recorded with the final plan.

2. Prior to recording, the Town Engineer must review and approve the

final plan set for recording.

3. Prior to recording, the Planning Board must set the amount of performance security in keeping with the requirements of Article 7 of the subdivision rules and regulations, and the required security shall be posted with the Town in a form acceptable to the Finance Director.

4. No building permits shall be issued for new development within the subdivision until development plan review and design requirements for commercial development have been adopted by the Town, or a Comprehensive Plan amendment to designate the subject property for industrial development has taken effect.

5. Final design of the proposed sewer line extension and connections must be approved by the DPW Director prior to installation.

6. All requirements relating to public water supply as expressed in the July 12, 2005 letter from Julia A. Fogue, DPW Director, Newport (attached), must addressed.

Vote: 6-0-0.

14. Green End Pond, LLC (Blake Henderson), John Clarke Rd., Proposed 2-lot subdivision, Plat 115, Lot 33 Request for combined preliminary and final review

Attorney David Martland represented the applicant.

Mr. Wolanski stated that the application has been certified complete.

Ms. Bennett stated that the Board normally conducts a site visit for all subdivision applications.

By consensus the application was continued to the October 12, 2005 Planning Board meeting. A subcommittee was established to conduct a site visit on September 21st.

15. Review proposed ordinance relating to applications for comprehensive permit for low and moderate income housing under the provisions of RIGL Title 45, Chapter 53

Mr. Wolanski described the purpose for the proposed ordinance.

Mr. Gorton stated that he had reviewed the ordinance.

Motion by Ms. Rearick, seconded by Ms. Aull to forward the draft ordinance to the Town Council for adoption.

The Planning Board adjourned and reconvened as the Town Center Review Board.

Old Business

1. William Parvo – Request for approval to install an awning sign for a business located at 679 West Main Rd., Plat 107SE, Lot 22

The applicant, David Parvo, addressed the Board. He described the new wall sign design. The size will be reduced from the sketch that was submitted. There is an existing 9 sq.ft. free-standing sign. The proposed wall sign will measure 10 feet long by 23 inches tall. The sign would be lit by gooseneck lighting.

Mr. Wolanski confirmed that the proposed size and construction would meet the requirements of the Town Center Overlay District.

Motion by Mr. Lawrence, seconded by Ms. Aull to grant approval of the proposed wall sign, subject to the condition that it be limited to 19.2 sq.ft. in area. Vote: 6-0-0

2. EB Games (RK Plaza) – Request for approval to install a new wall mounted sign for a business locating in the shopping center located

at 250 East Main Rd., Plat 113, Lot 15A

Jeremy Waycott, of Alto Signs, represented the applicant.

Mr. Wolanski stated that the sign would be back lit or halo lit, similar to other wall signs on the shopping center. The proposed sign, at 26" tall is 2" over the two-foot limit. A waiver for the internally lit sign as well as for materials would be required.

There was discussion of the new panel proposed for the existing pylon shopping center sign. The Board agreed that the applicant should be allowed to replace the sign panel on one section of the existing sign.

Ms. Bennett asked if the height sign could be reduced.

Mr. Waycott stated that the sign would meet the two-foot height requirement.

Motion by Mr. Adams, seconded by Ms. Rearick to grant approval of the proposed wall sign, subject to the condition that it be limited to 24 inches in height. In granting the approval the Board approved the following waivers:

- Waiver of 2404.5 (g) to allow a sign constructed partially of plastic materials.**
- Waiver of 2404.5 (h) to allow a sign that, although halo lit with opaque letters, is described as internally illuminated.**

Vote: 6-0-0

Motion by Mr. Adams, seconded by Ms. Aull, to adjourn. Vote: 6-0-0

The meeting adjourned at 8:15pm