

PL ANNING BOARD MINUTES

June 13, 2007

Board members present:

Art Weber, Chairman Ron Wolanski, Town Planner

John Tucker, Vice Chairman Frank Holbrook, Town Solicitor

Richard Adams

Audrey Rearick

Frank Forgue

Jan Eckhart

Betty Jane Owen

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

Minutes

Motion by Ms. Rearick, seconded by Ms. Owen, to approve the minutes of the May 9, 2007 regular meeting, as amended. Vote 7-0-0.

Old Business

1. Public Hearing (continued) - George P. Lewis, Proposed 4-lot minor subdivision & extension of Trout Dr., Plat 125, Lot 935, Preliminary Plan

Attorney Brian Bardorf represented the applicant. He stated that the revised plan provided to the Board addresses technical concerns raised regarding the previous plan. He reviewed the history of the

discussions regarding the proposed cul-de-sac and the concept previously presented by Peter Gallipeau for a possible connection to the Lewis roadway extension. Citing the possible impacts from traffic and storm runoff on the neighborhood, he requested that the Board consider granting preliminary approval of the plan as presented.

Mr. Weber stated that he would prefer a plan to extend the roadway to the property line at Bailey Ave. in order to allow for a future connect to Bailey Ave. or Sachuest Way.

Ms. Rearick and Ms. Owen stated that they prefer the cul-de-sac plan as it would preserve the neighborhood and address traffic safety concerns. Ms. Rearick stated that the Comprehensive Plan supports her view, including the preservation of the neighborhood's unique characteristics.

Mr. Eckhart and Mr. Forgue agreed that the cul-de-sac is the preferred option in this case.

Mr. Adams stated that he generally supports the connection of roadways in order to provide for improved traffic circulation, but in this particular case the cul-de-sac is acceptable to address the concerns that have been raised.

Mr. Tucker cited the recommendation of town staff, including DPW and Fire, in favor of providing for a road connection to improve traffic circulation and access. He does not support the cul-de-sac design.

Mr. Wolanski stated that an approval of the preliminary plan should be subject to conditions identified in comments in his memo of June 6, 2007.

The meeting was opened to public comment.

Peter Gallipeau, an abutter to the subject property, stated that there is still a possibility that future development of his property would provide for a connection of Sachuest Drive to Trout Drive, which the proposed plan would not allow. He also referenced the fact that the Town Engineer has not yet approved the drainage plan. He stated that there has been no expert testimony in support of the cul-de-sac plan.

Mr. Wolanski stated that the drainage report submitted previously had been reviewed and approved. The Town Engineer must confirm that the drainage plan is sufficient given the minor alterations to the subdivision plan.

Middletown resident Arthur Benner stated that the Planning Board should consider requesting that the Town's consulting engineer, PARE Corporation, review the drainage plan.

There being no one else requesting to speak, the public hearing was closed.

Motion by Ms. Rearick, seconded by Ms. Owen, to grant preliminary plan approval subject to the following conditions:

1. Prior to Final Approval, the subdivision plans, drainage report, and associated documents must be reviewed and approved by the Town Engineer.

2. Prior to final approval easement documents for all proposed easements must be provided for approval. Drainage easements for facilities to be owned by the subdivision property owners should include a provision to allow, but not require, Town access to perform maintenance in the event the owners do not perform the required maintenance. Maintenance of these facilities will be the responsibility

of the property owners. The applicant has also provided a drainage easement on the plan to allow the Town, if it so chooses, to install storm drainage facilities from Sachuest Way to Bailey Ave. The language for this proposed easement must also be provided.

3. Prior to final approval the applicant must demonstrate in writing the willingness to post surety for the installation of all proposed and required facilities in accordance with Article 7 of the Middletown Subdivision Rules and Regulations. The form of surety must be approved by the Finance Director. The amount of surety must be estimated by the applicant, approved by the Town Engineer and forwarded to the Planning Board for consideration. Security must be posted as required by the Finance Director prior to recording of the final plan. The applicant is responsible for providing the schedule of estimated costs, based in prevailing wage rates, which will be reviewed by the Town Engineer.

4. Proposed Lot 935 contains wetlands. Prior to final approval, the applicant must provide documentation from RIDEM indicating that the plan does not violate provisions of the Freshwater Wetlands Act.

5. Proposed Lot 935-D contains Stissing soils in an area of proposed development and therefore would require a special use permit to allow for the development of the lot. The required special use permit must be secured prior to final approval.

Vote: 5-2-0 with Mr. Tucker and Mr. Weber voting in opposition.

2. Public Hearing (continued) - Karmik, LLC, Proposed 6-lot major subdivision, Plat 120 Lot 46, Prospect Ave. & Aquidneck Ave.

Request for Preliminary Plan approval

Attorney Robert Silva represented the applicant. He stated that there are some technical issues that must be addressed, as well as further discussion regarding a right-of-way to the subject property which crosses abutting property. That abutter, Ms. McHenry, has requested that the ROW be eliminated. Regarding the ROW Mr. Silva stated that, while he has advised his client to consider releasing the ROW if it is not needed, he couldn't confirm that this will occur. A continuance to the July meeting is in order.

There was discussion of the Planning Board's ability to restrict the means of access to the proposed subdivision lots, thereby eliminating the need for the ROW. Mr. Silva and Mr. Holbrook will discuss this issue prior to the July 11 Planning Board meeting.

Ms. McHenry, 289 Prospect Ave, an abutter to the subject property, stated that she concerned about the future use of the right-of-way. She requested that she be invited to the meeting between Mr. Silva and Mr. Holbrook regarding the legal issues relating to the ROW. She asked about the legal status of the ROW once the property is divided.

Mr. Silva stated that he would provide the deed language regarding the ROW.

Motion by Mr. Tucker, seconded by Ms. Owen, to continue this matter, keeping the public hearing open, to the July 11, 2007 Planning Board meeting. Vote: 7-0-0.

3. James S. Holmes, Proposed 2-lot Minor Subdivision, Mitchell's Lane (Plat 123, Lot 6), Preliminary Plan

There was no one present to represent the applicant.

Motion by Mr. Tucker, seconded by Ms. Owen, to continue the matter to the July 11, 2007 Planning Board meeting. Vote: 7-0-0

4. Jose L. Gomes - Proposed 2-lot Minor Subdivision, Jepson Lane (Plat 117, Lot 84) – Final Plan.

Attorney David Martland represented the applicant. He stated that the necessary zoning relief regarding frontage had been granted by the Zoning Board of Review.

There was discussion of the possible conditions of approval identified in Mr. Wolanski's memo of June 6th.

Mr. Martland stated that he has requested the certification of availability of public water from the Newport Water Dept.

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

1. Prior to recording, written confirmation from the City of Newport DPW regarding their ability to serve the subdivision with public water must be provided.

2. Prior to recording, a copy of the plan must be submitted electronically (AutoCAD format) if available.

Vote: 7-0-0.

5. David Leys, Jr., Request for combined preliminary and final plan approval for a 2-lot subdivision, Tuckerman Ave., Plat 116SE, Lot 109. The applicant, Mr. Leys, was present.

Mr. Weber stated that it appears that there are no problems with the proposal. He referred to the possible conditions contained in Mr. Wolanski's memo of June 6th.

Motion by Mr. Eckhart, seconded by Ms. Rearick, to grant final

subdivision plan approval subject to the following conditions:

1. Prior to recording, written confirmation from the City of Newport DPW regarding their ability to serve the subdivision lots with public water must be provided.

2. Prior to recording, the existing structure on the property, which straddles the proposed new property line, must be removed and this removal certified by the Building Official.

Vote: 7-0-0.

6. Segerson Subdivision, Greene Lane, Plat 105, Lots 4b & 4c – Request for extension of subdivision approval

Attorney Robert Silva represented the applicant. He stated that his client is working with a developer who will address the conditions of the subdivision approval, including the requirement to post a performance bond for the subdivision improvements.

Mr. Wolanski recommended that if an extension is granted the applicant should be required to provide an update of the construction costs used to calculate the performance band, and the drainage plan should be reviewed for consistency with the current regulations.

Motion by Ms. Rearick, seconded by Mr. Eckhart, to grant a 60-day extension from the date of the meeting subject to the following conditions:

1. The applicant's engineer must confirm that the plans as approved in June 2005 comply with the current construction site runoff ordinance (Chapter 151) and storm water management ordinance (Chapter 153). If necessary revised plans and drainage report must be submitted for review.

2. Current estimated costs for all proposed subdivision improvements, including roads and storm water drainage facilities, must be provided for review and approval by the Town Engineer.

Vote: 7-0-0

7. Carol Cummings, Proposed 2-lot subdivision, Plat 129, Lot 154, Indian Avenue, Request for extension of plan approval.

There was no one present to represent the applicant.

Mr. Wolanski, referencing the letter provided by Ms. Cummings, suggested that the Board consider a 90-day extension of the subdivision approval.

Motion by Mr. Eckhart, seconded by Ms. Owen, to grant a 90-day extension of the subdivision approval. Vote: 7-0-0.

8. Omni Land Company. - Subdivision (Plat 111, Lots 8, 9, 9A, 10), 9-lot subdivision, (Final Plan) –Request for extension of subdivision approval

Attorney Robert Silva represented the applicant. He stated that since the death of the property owner, work is ongoing to settle his affairs, including the disposition of the subject property. He requested a 1-year extension of the subdivision approval.

Motion by Mr. Tucker, seconded by Ms. Rearick, to grant one-year extension of the subdivision approval. Vote: 7-0-0.

9. John S. & Denise Crimmins, Proposed administrative subdivision, Riverview Ave., Plat 125, Lots 131A & 500 Final approval.

Attorney David Martland represented the applicant. He stated that the necessary zoning relief has been granted by the Zoning Board of Review. He provided a revised plan that included the required note

referenced in Mr. Wolanski's memo of June 6, 2007.

Mr. Wolanski indicated that there are no further concerns with the proposal.

Motion by Mr. Eckhart, seconded by Ms. Owen, to grant final subdivision plan approval subject to the condition as expressed by the note on the plan, that no future subdivision or development of the subject property is permitted. Vote: 7-0-0

10. Request of the Zoning Board of Review for an advisory recommendation pursuant to Section 1501 of the Zoning Ordinance regarding a request for approval for multi-family residential development – 985 East Main Road, LLC, Request to develop a 36-unit multi-family dwelling project, located at 985 East Main Rd., Plat 118, Lot 20.

Mr. Weber recused himself from the discussion. Vice-chairman Mr. Tucker presided.

Attorney David Martland represented the applicant. He stated that there are ongoing discussions with abutting property owners and requested that the matter be continued to the July 11th Planning Board meeting.

Bob Cory, a resident of Meadow Lane, requested some information on the process for the requested zoning relief for the project.

Mr. Wolanski described the process.

Motion by Ms. Owen, seconded by Ms. Rearick, to continue the matter to the July 11, 2007 Planning Board meeting. Vote: 6-0-0

11. Child & Family Services, Request for Development Plan Review, referral by the Technical Review Committee.

Attorney David Martland represented the applicant.

Mr. Weber stated that revised plans had been submitted after the Planning Board packets were distributed. The Board needs time to review the revised plans before considering the proposal. The matter should be continued to the next Planning Board meeting.

Mr. Martland stated that the changes to the plans are minor and he could describe them for the Board.

Mr. Weber stated that the Board's policy is to not consider revised materials that are not included in the packets. Mr. Tucker agreed.

Mr. Wolanski stated that the procedure for Development Plan Review requires that the Board provide the necessary recommendation to the Zoning Board of Review within a specific time frame. If the Board wishes to consider a continuance, the applicant must be in agreement.

Mr. Martland indicated that his client would agree to a continuance.

Motion by Mr. Tucker, seconded by Ms. Rearick, to continue the matter to the July 11, 2007 Planning Board meeting. Vote: 7-0-0.

12. Update – Conservation Subdivision ordinance amendment

13. Update – Preparation of draft mixed-use zoning ordinance amendment

Mr. Weber indicated that work to revise the draft mixed-use and conservation subdivision ordinances is underway.

14. Update – Atlantic Beach District Master Plan

Mr. Weber indicated that the consultant is in the process of drafting the plan, which will be presented in draft form to a joint meeting of the Town Council and Planning Board.

15. Consideration of proposal to amend the Middletown Comprehensive Community Plan and Zoning Map to designate all or portions of Lot 1, AP 107SW for Residential Multi-family (RM) use.

Attorney Patrick Hayes represented the proponent, Mr. Bicho. He stated that the proposal would be consistent with the existing use. He provided information regarding the existing development in relation to the requirements of the multi-family zoning district.

There was discussion that even if the existing development would not meet all dimensional requirements of the proposed district, the use would be conforming, where it currently is not.

Mr. Wolanski explained that an amendment of the Comprehensive Plan designation for the area must be considered before the zone change petition should proceed.

Motion by Ms. Owen, seconded by Ms. Rearick, to advertise a public hearing for consideration of an amendment to the Comprehensive Plan designation for the property to high-density residential. Said hearing to be held on July 11, 2007 at 6pm. Vote 7-0-0

16. Consideration of proposed amendments to the Middletown Zoning Ordinance.

Mr. Wolanski referenced the items listed in his memo to the Board dated May 3, 2007. There are several amendments to the recently adopted Zoning Ordinance that should be considered.

By consensus the scheduled a special meeting to review the proposed amendments for June 25, 2007 at 9am.

New Business

17. Peter & Elizibeth Gallipeau, Proposed administrative subdivision,

Saltwood Farm, Sachuest Drive, Plat 125, Lots 4, 216, 217, 218

Mr. Holbrook recused himself from the discussion.

Mr. Wolanski stated that Mr. Gallipeau was unable to stay for the discussion. Mr. Wolanski indicated that there appears to be no outstanding issues with regard to the plan, with the exception of the access easement for proposed Lot 2. Assistant Solicitor Jackson has provided requested changes to the proposed easement document. An approval of the plan should be conditioned on the final review and approval of the easement prior to recording.

Motion by Mr. Tucker, seconded by Ms. Rearick, to grant approval of the administrative subdivision plan subject to the following condition:

1. Prior to recording, the access easement document regarding proposed access to subdivision Lot 2 from Sachuest Dr. must be revised and provided for approval by the Assistant Town Solicitor.

Vote: 7-0-0

18. Conceptual review – Richard Stibolt, 310 Indian Ave., proposed 3-lot subdivision, Plat 130, Lot 33.

Mr. Stibolt explained his concept for a 3-lot subdivision of his mother's property. The property has no frontage on a public road and is currently accessed via a private right-of-way.

Mr. Weber stated that the Board has been consistent in requiring that new subdivision lots meet the requirements of the zoning ordinance, including the minimum frontage requirements. He could not support the proposed subdivision without provision of lot frontage on a public road.

Other board members expressed similar concerns.

Mr. Stibolt stated that he would be willing to work with the Fire Dept. to ensure that adequate access is provided.

There was discussion that if a public road right-of-way could be secured, the Planning Board would have the ability to consider the standard to which the road would be constructed. However, it would be the applicant's responsibility to somehow provide for the public road right-of-way.

The Board advised Mr. Stibolt to investigate options for securing from abutting property owners the land necessary for the public road.

19. Discuss regulations relating to siting of group homes

Mr. Weber stated that he had requested that this item appear on the agenda in order to discuss concerns raised regarding a proposed group home to be sited in Middletown. He stated that he was concerned that the Town apparently has no ability to review or regulate such proposals. He indicated that an amendment to state law may be needed to provide an opportunity for local review. He asked that the Board support requesting that the Town Council consider opportunities for providing for local oversight.

M. Theresa Santos, a resident of Morrison Ave., stated her concerns that there is no local oversight and that non-profit agencies are able to purchase properties which then become tax-exempt.

Kelly Mitchell, a resident of Coggeshall Cir., stated that she is concerned about the impacts of the group home proposed to be located in her neighborhood, and lack of review.

Ray Alexander, a resident of Coggeshall Cir., stated that group homes have the potential change the character of a neighborhood. There

needs to be a process for reviewing the siting of group homes.

After some additional discussion, by consensus, the Board agreed to send a letter to the Town Council requesting that appropriate action be initiated to provide for local oversight of group homes.

20. Reed Development, Request for Development Plan Review, referral by the Technical Review Committee, Aquidneck Ave., Plat 114, Lots 117, 137, 138, 758, Proposed 67,000 sq.ft. self-storage facility.

Attorney David Martland represented the applicant. He described the major components of the project.

Mr. Weber expressed concern over the waivers from the design requirements that would be necessary.

The Board reviewed the compliance checklist provided by the Mr. Wolanski with his memo of June 7, 2007.

There was discussion of the exterior building materials and the proposed landscaping and screening that would be provided to mitigate the appearance of the building as viewed from Aquidneck Ave.

Paul Lamond, Tree Commission Chairm, requested that some trees to be located on the northerly property line be located closer to Aquidneck Ave.

The applicant agreed to make the change to the landscaping plan.

The applicant provided a revised lighting plan that indicated that the lighting would minimize the impact on adjacent properties and on night-sky pollution.

There was discussion of the floorplan and security for the building.

The applicant stated that there would be a property manager living on the site, as well as alarm and closed-circuit video system. Fencing is not needed since storage units are excess through the interior of the building.

There was discussion about the existing stone walls on the property. The applicant stated that the walls would maintained and/or rebuilt as required by the town ordinance.

M. Theresa Santos, a resident of Morrison Ave., stated that there is an existing traffic problem caused by trucks accessing the abutting property and warehouse. She asked if there could be an accommodation on the applicant's property to address this problem by eliminating the need for trucks to block Aquidneck Ave. as the access the Toppa's property.

Mr. Martland stated that Mr. Reed has indicated his willingness to dedicate a portion of his property to help solve this problem. There have been repeated attempts to discuss the issue with the abutting property owner. These attempts have not resulting a solution.

Mr. Reed indicated that he is willing to participate in the solution, but the abutting property owner must also participate.

The Board discussed the waivers that would be required to allow the project to proceed. Some members indicated that they are comfortable with the design of the building and the site.

Motion by Mr. Tucker, seconded by Ms. Rearick, to forward a positive recommendation to the Zoning Board of Review with regard to the Development Plan Review, subject to the following conditions and waivers:

- 1. The applicant did not provide a plan for signage. Signage must be reviewed prior to installation for consistency with appropriate requirements.**
- 2. The landscaping plan has not been stamped by a RI Registered Landscape Architect. This certification is required by state law. Prior to final approval the plan must be stamped by a RI Registered Landscape Architect.**
- 3. The landscaping plan should be revised to address concerns raised by the chairman of the Tree Commission, including the relocation of some trees along the northern property boundary to be closer to Aquidneck Ave.**
- 4. A copy of the required RIDOT Physical Alteration Permit (PAP) has yet to be provided. Prior to final approval the applicant must provide a RIDOT Physical Alteration Permit.**
- 5. Certification of the availability of public water to serve the development has yet to be provided. This certification must be provided prior to final approval.**
- 6. A drainage maintenance easement covering the storm water drainage facilities should be required. This easement should include the provisions of the maintenance program and would allow, but not require, the town to enter the property to conduct the necessary maintenance should to property owner default. The easement should specify that the property owner would still be responsible all costs associated with performance of the maintenance, and be subject to a lien being placed on the property.**
- 7. Prior to final plan approval the items identified by the Town**

Engineer in his memo of June 13, 2007 (attached) must be addressed.

8. To the extent possible, existing stone walls on the property should be preserved, and provisions of the town's regulations relating to stone walls (Town Code Chapter 97) shall be addressed.

Waivers were granted from the following design requirements (Article 5 – Rules & Regulations Regarding the Subdivision & Development of Land):

Section 521.2.A.2 – Regarding unbroken plan of a wall

Section 521.2.A.3 – Regarding garage doors visible from the public way

Section 521.2.B.1 – Regarding windows

Section 521.2.C – Regarding exterior building materials

Section 521.2.D – Regarding roof design for the sides and rear

Section 521.3.D.3 – Regarding landscaped buffer adjacent to the building

Section 521.3.F – Regarding spacing of trees along the street frontage

Vote: 7-0-0

Motion by Ms. Rearick, seconded by Ms. Owen, to adjourn. Vote: 7-0-0

The meeting adjourned at 8:50pm