

PLANNING BOARD MINUTES

October 8, 2008

Board members present:

Art Weber, Chairman Ron Wolanski, Town Planner

Jan Eckhart, Vice Chairman Frank Holbrook, Town Solicitor

Audrey Rearick, Secretary

Richard Adams

Frank Forgue

Betty Jane Owen

Member absent:

Gladys Lavine

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

Minutes:

Motion by Mr. Adams, seconded by Ms. Rearick, to approve the minutes of the September 10, 2008 regular meeting and the October 2, 2008 special meeting. Vote: 6-0-0.

Old Business

1. Request of the Town Council for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 603 regarding dimensional regulations in the Office Park (OP) zoning district.

Mr. Weber recommended, due the Jewish holiday and the inability if some interested parties to attend the meeting, that this item be continued to the November Planning Board meeting.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the November 12, 2008 regular planning board meeting. Vote: 6-0-0

2. Public Informational Meeting - Peter Gallipeau (Saltwood Farm), Proposed 14-lot Subdivision, Plat 126, Lots 4, 217, 218, 219, Master Plan Submission

Mr. Weber stated that consistent with normal practice the Board should consider conducting a site visit to view the property in light of the new plan.

It was requested that the Conservation Commission and the Roads & Utilities Advisory Committee be invited to attend the site visit.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue the discussion to the November 12, 2008 regular Planning Board meeting. Vote: 6-0-0.

The site visit was scheduled for Monday, October 27, 2008 @ 9am.

3. Public Hearing (Continued) – Proposed amendments to the Middletown Rules & Regulations Regarding the Subdivision and Development of Land: Amend Article 6 to add regulations regarding gated communities; and amend Article 7 regarding performance standards

Mr. Weber described the requested amendments.

Mr. Wolanski stated that revised draft of the proposed amendments incorporates the comments provided by the Town Solicitor prior to the September Planning Board meeting. Mr. Gallipeau has

recommended additional changes to the language in his letter to Mr. Wolanski dated September 23, 2008.

Mr. Holbrook and Mr. Wolanski indicated that the additional changes proposed by Mr. Gallipeau are acceptable.

The meeting was opened to public comments. There being no members of the public wishing to speak, the public hear was closed.

Motion by Ms. Owen, seconded by Mr. Forgue, to adopt the amendments to the Middletown Rules & Regulations Regarding the Subdivision and Development of Land as revised, and to forward the amendments to the Town Council for approval. Vote: 6-0-0.

4. Discuss revised draft Zoning Ordinance amendment relating to wind energy conversion facilities

Mr. Wolanski stated that he had provided a revised draft of the proposed ordinance in the Planning Board's packets. The draft incorporates the changes recommended by the Town Solicitor. He identified some additional grammatical changes that will also be made.

Mr. Wolanski stated that the draft current requires the provision of photographic visualizations for facilities mounted on towers which require a special use permit and for all utility scale facilities. He asked if the Board was comfortable with the requirement for small-scale facilities given the possible added cost to provide the visualizations.

After discussion, the consensus of the Board was that visualizations would be beneficial during the review of such special use permit applications.

Motion by Ms. Rearick, seconded by Ms. Owen, to forward the

proposed zoning ordinance amendment as revised to the Town Council with a recommendation that the amendment be adopted. Vote: 6-0-0.

5. Discuss potential amendment to the Middletown Zoning Ordinance, Article 4, regarding the definition of Building Height.

Mr. Wolanski stated that he had provided the board with some examples of how building height is determined in other towns.

Mr. Weber stated that subcommittee should meet with the Building/Zoning Official to discuss the current procedure in Middletown and investigate potential changes to the procedure.

Motion by Ms. Owen, seconded by Ms. Rearick to continue the matter to the November 12, 2008 regular Planning Board meeting. Vote 6-0-0. A special meeting of the Board with the Building/Zoning Official was scheduled for October 30, 2008 at 9am.

6. Discuss process for Comprehensive Community Plan 5-year update

Mr. Wolanski stated that he had provided the Board with CD containing the entire current version of the Comprehensive Plan. He suggest that Board members begin reviewing the Land Use element of the plan, specifically the Future Land Use Plan to identify potential revisions.

By consensus this matter was continued to the November 12, 2008 regular Planning Board meeting, with a special meeting to discuss the Future Land Use Plan scheduled for October 30, 2008 at 10am.

7. Review revised draft Inclusionary Housing ordinance

Mr. Wolanski stated that he had provided a revised draft of the

ordinance to implement a more incentive-based approach to the program, including revisions recommended by the Town Solicitor. He requested that the Board review the two alternatives for providing the density bonus. Other options should also be considered to ensure that the bonus is sufficient to encourage developer participation.

The Board requested that the draft be provided to real estate experts for evaluation.

Appraiser Paul Hogan, who was in the audience, volunteered to review the draft and provide comments. The draft will also be provided to Steve Ostiguy at Church Community Housing and local developer Peter Gallipeau.

By consensus the matter was continued to the November 12, 2008 regular Planning Board meeting.

New Business

8. Request of the Town Council for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 602, Table 6-1, Zoning District Permitted Uses, regarding “Day nursery school, kindergarten, or other agency giving daycare”

Mr. Adams requested advice from the Solicitor about his need to recuse himself from the discussion due to his involvement with a church which operates day care in a residential district.

Mr. Holbrook advised Mr. Adams that unless he had the potential to personally benefit as a result of the proposal there is likely no need to recuse.

Carol Cummings, a resident of Indian Avenue and proponent of the proposed amendment, addressed the Board. She explained the

proposal and the recent application of St. Columba's Church for a commercial day care operation on church property. The development of a for-profit commercial operation in a residential district is not appropriate.

Mr. Adams stated that he did not see a conflict with operating a day-care facility in a residential area.

Ms. Cummings stated that the church risked losing its tax-exempt status if the for-profit proposed daycare had been developed.

Mr. Weber stated that whether a facility is for-profit or non-profit is not a concern to be addressed by zoning.

Mr. Wolanski stated that in considering a zoning amendment, a particular use's impacts on the community, rather than ownership or non-profit status should be considered.

Mr. Wolanski suggested that if the Board were to consider recommending in favor of an amendment, it should consider allowing in-home daycare operations even if commercial or stand-alone facilities are prohibited.

After additional discussion the consensus of the Board was that the concerns raised did not warrant an amendment to prohibit the use in the specified districts.

Motion by Mr. Adams, seconded by Mr. Forgue, to forward a recommendation to the Town Council that the proposed amendment not be adopted. Vote: 6-0-0.

9. Request for consideration of a proposed amendments to Zoning Ordinance Article 4 – Definitions, and Section 2201, and Article 22 – Senior Independent Living Facilities, regarding occupancy

restrictions.

Attorney Patrick Hayes, representing the Simon Companies, developer of the BayRidge condominium development, requested that the Board consider a request to amend the Zoning Ordinance regarding independent living facilities to require that only one resident of each unit be 55 years old or older. Currently the regulations require that all residents must be older than 55 years. He indicated that the proposed language would be consistent with state law regarding age-restricted development, where the current requirements may be in conflict with the law.

Mr. Holbrook stated that he would like an opportunity to review the proposal for consistency with state law.

Mr. Wolanski stated that the current regulations were developed in light of concern over the increased density allowed in such developments. Restricting the age of residents was seen as a way of limiting the impact on town facilities and services.

Mr. Hayes stated that similar developments, including one in Portsmouth with no age restriction, typically do not attract families with children.

Planning Board members indicated no concern with the proposed amendment.

Motion by Mr. Eckhart, seconded by Mr. Forgue, to forward the proposed amendment to the Town Council with a recommendation that it be adopted, subject to the review by the Town Solicitor indicating that it is consistent with applicable state law. Vote: 6-0-0.

10. Discuss potential amendments to the Middletown Zoning

Ordinance, Sections 602 & 603 regarding allowed uses and dimensional requirements on the Limited Business (LB) zoning district

Mr. Wolanski stated that an owner of limited business (LB) zoned property had requested that the Board consider suggested amendments to the zoning ordinance regarding the use and dimensional regulations for the LB district. A list of the proposed amendments was provided for discussion.

Board members express reluctance to consider all of the proposed changes, as they would impact all LB district properties.

Mr. Wolanski stated that the Board could consider a floating zone concept, which could allow for some relief from underlying zoning to allow for development that is determined to be in the town's best interest. The Board would have to determine the specific development criteria and zoning standards that would be required.

The Board requested that Mr. Wolanski provide additional information on the floating zone concept.

Motion by Ms. Owen, seconded by Mr. Forgue, to continue the matter to the November 12, 2008 regular Planning Board meeting. Voter: 6-0-0.

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

The meeting adjourned at 7:45pm