

PLANNING BOARD MINUTES

October 10, 2012

Town Council Chambers

Board members present:

Jan Eckhart, Chairman Ron Wolanski, Town Planner

**Richard Adams, Vice Chairman Frank Holbrook, Assistant Town
Solicitor**

Audrey Rearick

Gladys Lavine

Pete Marnane

Charlene Rose-Cirillo

Betty Jane Owen

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

**1. Approval of the minutes of the September 12, 2012 regular
Planning Board meeting.**

**Motion by Ms. Owen, seconded by Ms. Cirillo, to approve the minutes
of the September 12, 2012 regular Planning Board meeting. Vote:
7-0-0.**

2. Correspondence

**A. Copy of letter from Ronald Wolanski to Vincent J. Mesoella, dated
September 19, 2012 regarding requests for zoning ordinance and
comprehensive plan amendments, Plat 111, Lot 9A. Motion by Ms.**

Rearick, seconded by Ms. Owen to receive communication. Vote 7-0-0.

B. Email communication from Vincent Mesoletta, dated September 24, 2012, regarding extension of time to issue recommendation on zoning amendment request. Motion by Ms. Rearick, seconded by Ms. Cirillo, to receive communication. Vote 7-0-0.

C. Letter from Kevin M. Flynn, Associate Director, RI Division of Planning, dated September 25, 2012, regarding 2012 planning legislation. Motion by Ms. Rearick, seconded by Ms. Cirillo, to receive communication. Vote 7-0-0.

Old Business

3. Public Hearing – Peter Gallipeau, Proposed 12 lot Major Subdivision, Bailey Ave. & Sachuest Drive, Plat 126, Lot 4, Request for Preliminary Plan Approval.

Mr. Holbrook recused himself from discussion of this item.

Mr. Eckhart stated that the applicant has requested a continuance in order to provide revised plans in response to the most recent comments from PARE Corp .

Motion by Ms. Rearick, seconded by Ms. Cirillo, to continue the matter to the November 14, 2012 Planning Board meeting at 6:30pm. Vote: 7-0-0.

4. CVDDII, LLC, Petition to amend the Middletown Comprehensive Community Plan, to change the designation on the Future Land Use Plan, Figure 7, for property at 1747 West Main Rd., and identified as Plat 111, Lot 9A, from Industrial to High Density Residential.

Motion by Ms. Owen, seconded by Ms. Rearick, to schedule a public

hearing on this matter for Wednesday, November 14, 2012, 5:30pm, in the Town Council Chambers. Vote: 7-0-0.

5. CVDDII, LLC, Request of the Town Council for a recommendation on a petition to amend the Middletown Zoning Ordinance, to change the zoning designation for property at 1747 West Main Rd., and identified as Plat 111, Lot 9A, from light industrial, traffic sensitive (LIA) to Residential, R-10.

Motion by Ms. Owen, seconded by Ms. Rearick, to continue this matter to the November 14, 2012 regular planning board meeting. Vote: 7-0-0.

6. Discussion of proposed amendments to Article 3 of the Zoning Ordinance, and Article 10 of the Rules and Regulations Regarding the Subdivision and Development of Land relative to the Development Plan Review process.

Mr. Wolanski stated that he continues to work with the Town Solicitor's office to revise draft proposed zoning ordinance amendments. A revised draft will be provided for discussion during the next Planning Board meeting.

Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the November 14, 2012 Planning Board meeting. Vote: 7-0-0.

7. Update on Comprehensive Community Plan 5-year update process. Mr. Adams stated that work on the draft updates continues.

8. Update on activities of the Aquidneck Island Planning Commission. Mr. Adams updated the Board on the ongoing efforts of the AIPC, including funding concerns.

9. John C. Erickson, Jr. & Geralyn A Erickson Revocable Trust,

Request for Development Plan Review for proposed construction of a new commercial building at 845 Aquidneck Ave., Plat 114, Lot 132.

Attorney Robert M. Silva represented the applicant. He reviewed the proposal including the proposed building design, site plan, and requested waivers from the town's commercial development design standards.

The applicant's engineer, Todd Chaplin of Mount Hope Engineering, described the proposed storm water management system. He stated that a physical alteration permit from the RIDOT will be required in order to tie the drainage system into the state system on Aquidneck Ave.

Mr. Chaplin provided a property line survey for the subject parcel. In response to a question by Mr. Adams there was discussion of the proposed drive to serve the new building. There will be an increase in impervious surface.

Mr. Marnane requested clarification on the existing and proposed screening along the property lines. Mr. Silva indicated that the property abuts a tradesmen's building, and it is along that portion of the property line that the screening is unnecessary.

The recommended conditions of approval provided by the Technical Review Committee were reviewed.

Based on the anticipated limited impact of the proposed development on the neighborhood and town services, there was a motion by Mr. Marnane, seconded by Ms. Rearick, to waive the requirement for an development impact report. Vote: 7-0-0.

Motion by Mr. Adams, seconded by Ms. Owen, to waive commercial

design standards Section 521.2.B – Regarding required amount and style of windows. Vote: 7-0-0.

Motion by Ms. Rearick, seconded by Ms. Owen, to waive commercial design standard Section 521.2.C – Regarding exterior building materials. Vote: 7-0-0.

Motion by Ms. Owen, seconded by Ms. Rearick, to waive commercial design standard Section 521.3.C. – Regarding required screening elements along all property lines. Vote: 7-0-0.

Motion by Ms. Rearick, seconded by Ms. Owen, provide a positive recommendation on the application to the Zoning Board of Review with the following recommended condition of approval:

- Prior to issuance of building permits, the final storm water drainage management plan and calculations shall be reviewed and approved by the Town Engineer for conformance with Town Code Section 153, Storm Water Management.**

Vote: 7-0-0.

New Business

10. Diane L. L'Heureux, Request for preliminary plan approval for a proposed 2-lot minor subdivision, 127 Mitchells Lane, Plat 123, Lot 1. Attorney David Martland represented the applicant. He described the proposed subdivision. A zoning variance will be requested to allow for the new lot with less than the required frontage.

Mr. Eckhart reviewed the recommended conditions of approval contained in the Mr. Wolanski's memo dated October 2, 2012.

Mr. Martland indicated that the proposed conditions were acceptable. There was discussion of whether public water will be available to

serve the new lot. Mr. Martland stated that that had yet to be determined. If public water is not available, a well will be proposed.

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

1. Prior to final subdivision approval a copy of the recorded Zoning Board of Review decision approving the required zoning relief must be provided to the Planning Department.

2. Prior to final plan approval a RIDEM approved site soil evaluation demonstrating the suitability of the proposed new building lot for septic system development must be provided.

3. The survey must be tied to the State Plane Coordinates System.

4. Prior to final approval the applicant must provide a letter from the Newport Water Department indicating access to the public water supply. Otherwise the proposed well location must be indicated on the plan.

5. A note must be added to the plan regarding storm water control as follows: “At the time of development of the new building lot, the owner is required to comply with the provisions of the town’s storm water management ordinance (Chapter 153), and construction site runoff and erosion control ordinance (Chapter 151).”

6. The following note should be added to the plan: “At the time of development of the new building lot impact fees consistent with the Town’s impact fee ordinance (Chapter 150) must be paid prior to the issuance of building permits.

Vote: 7-0-0.

11. J. Michael Hill, Behan-Hill Properties, LLC, Request for 1-year

extension of subdivision approval for a 2-lot subdivision, Tuckerman Ave., Plat 116SE, Lot 109

The applicant, Mr. Hill, was present.

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

12. Karmic, LLC - Subdivision (Plat 120, Lot 46), 6-lot subdivision, (Final Plan) – Request for 1-year extension of approval

The applicant was not present.

Mr. Wolanski stated that an abutter had questioned the impact of the state tolling statute on the subdivision approval. He stated that as a result of the tolling statute first enacted in 2009, all Planning Board approvals remain valid until at least June 30, 2013. On that date, any time that was remaining on the subdivision approval when the tolling statute took effect is then applied. Mr. Wolanski estimated that the approval would therefore remain valid until December 2013. The requested extension of the Planning Board's approval, if granted, would also expire in December 2013.

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

13. 825 West Main, LLC (Kenneth J. Alves), Request for Development Plan Review for proposed commercial building renovation/addition, 825 West Main Rd., Plat 107NE, Lot 15c.

Mr. Holbrook recused himself from discussion of this matter.

Attorney David Martland represented the applicant. He reviewed the proposal. RIDEM wetlands and storm water permitting will be required. The applicant proposes to reestablish a drainage swale

along the southerly property line in order to improve storm water treatment.

Mr. Martland summarized the requested waivers from the commercial development design standards, and the rationale for each.

There was discussion of the screening requirements. Mr. Martland stated that a six-foot tall wooden fence along the southerly property line, which abuts a residential use, would be maintained, satisfying the screening requirement. A waiver is requested for screening along the westerly property line, which bisects an existing parking lot.

Regarding landscaping, the plan proposes no new formal landscaping. The property is approximately 35% covered by native vegetation. Impervious area will be reduced as a result of removal of some existing pavement. The proposed building addition will be in an area of existing pavement.

Mr. Martland described the proposed building design. A sample of the proposed exterior building materials and the proposed color was provided. Mr. Martland stated that the proposed design would not have been presented if the building was located along the road frontage. Waivers from the building design standards are requested in light of the location and limited visibility of the building.

Mr. Marnane asked if the building would be visible from the road. Mr. Martland stated that it would be visible, but it is set back from the road frontage. The proposed building will be taller than the existing building.

Mr. Adams asked about visibility from St. Lucy's Church. The applicant stated that there is an area of native vegetation that would

help screen the building from the church.

Mr. Adams asked about exterior lighting, and potential impacts on the residential abutters. Mr. Alves stated that there is no lighting proposed on the southerly side of the building. Otherwise, lighting will consist of wall packs which will comply with town requirements for shielding. A cut sheet of the proposed lighting fixture was provided.

Mr. Eckhart reviewed the requested waivers, and requested a motion on each.

Based on the anticipated limited impact of the proposed development on the neighborhood and town services, there was a motion by Ms. Owen, seconded by Mr. Marnane, to waive the requirement for a development impact report. Vote: 7-0-0.

Motion by Ms. Owen, seconded by Ms. Rearick, to waive commercial design standards Section 521.2.B – Regarding required amount and style of windows. Vote: 7-0-0.

Motion by Ms. Cirillo, seconded by Ms. Owen, to waive commercial design standard Section 521.2.C – Regarding exterior building materials. Vote: 7-0-0.

Motion by Ms. Cirillo, seconded by Ms. Rearick, to waive commercial design standard Section 521.2.D – Regarding exterior building materials. Vote: 7-0-0.

Motion by Mr. Adams, seconded by Ms. Rearick, to waive commercial design standard Section 521.3.B – Regarding amount of landscaping. Vote: 7-0-0.

Motion by Ms. Owen, seconded by Ms. Rearick, to waive commercial

design standard Section 521.3.C. – Regarding required screening elements along all property lines. Vote: 7-0-0.

Motion by Mr. Adams, seconded by Mr. Marnane, to waive commercial design standard Section 521.3.D – Regarding 20’ landscaped buffer along residential property line (19’ buffer existing/proposed along southerly property line.) Vote: 7-0-0.

Motion by Ms. Rearick, seconded by Ms. Cirillo, to provide a positive recommendation on the application to the Zoning Board of Review with the following recommended conditions of approval:

1. Prior to issuance of building permits, the final storm water drainage management plan and calculations shall be reviewed and approved by the Town Engineer for conformance with Town Code Sections 153 & 151, Storm Water Management and construction site erosion control.

2. The applicant must provide a lot line survey of the property prior to permitting.

3. Prior to the issuance of building permits, the applicant must secure required state permits, including wetlands permitting by RIDEM

Vote: 7-0-0.

14. 825 West Main, LLC (Kenneth J. Alves), Request of the Zoning Board of Review for an advisory recommendation on a Special Use Permit application to allow development in Zone 1 of the Watershed Conservation District. Proposed commercial building renovation/addition, 825 West Main Rd., Plat 107NE, Lot 15c.

Mr. Holbrook recused himself from discussion of this matter.

Attorney David Martland represented the applicant. He stated that the

Middletown Conservation Commission has reviewed the application and has provided a positive recommendation to the Zoning Board of Review.

There was discussion of proposed improvements to the existing storm drainage system. The building is connected to public sewer and water.

There was discussion about the potential for storage of hazardous chemicals in the building. Mr. Alves stated that storage of hazardous materials will be prohibited. He offered to provide a copy of the lease document that will be used in renting the individual units which will include the restriction. He also noted that the units will only be accessible from inside the building, which will allow for observation of items entering the building by staff.

Mr. Eckhart recognized Jim Marshall, who stated that he is a resident of Newport, and a member of the Aquidneck Island Watershed Council. Mr. Marshall stated that a study of Bailey Brook water quality was recently completed by a professor at Salve Regina University. It will be released shortly, and will identify specific water quality concerns. He stated his concern over development impacts on Bailey Brook.

Mr. Adams stated that there needs to be ongoing maintenance of storm water drainage facilities on the site.

Mr. Alves stated that he has maintained the drainage detention pond. The vegetation grows quickly and requires additional work.

Mr. Eckhart reviewed the recommended conditions of approval.

Motion by Mr. Adams, seconded by Ms. Cirillo, to provide a positive

recommendation to the Zoning Board of Review, subject to the following recommended conditions of approval:

1. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151), subject to the approval of the Town Engineer prior to the issuance of building permits.

2. Required maintenance of storm water treatment facilities shall be performed on an ongoing basis.

3. The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be limited

Vote: 7-0-0

15. Premier Toyota of Newport, Request for Development Plan Review for proposed new commercial building and alterations to an existing commercial building, 285 East Main Rd., Plat 113, Lot 20A

Mr. Holbrook recused himself from discussion of this matter.

Mr. Wolanski stated that the Planning Board had received a letter dated October 10, 2012 from an abutting property owner, Kate Voute Wright, owner of 82 Valley Rd. The letter expresses concern over potential storm water drainage impacts from the proposed development. A copy of the letter was provided to the applicant.

Mr. Eckhart stated that his preference was to refer the application to the Technical Review Committee for review prior to the Planning Board taking action. He offered the applicant an opportunity to provide a presentation.

Motion by Ms. Rearick, seconded by Ms. Owen, to refer the application to the Technical Review Committee for review and

comment. Vote: 7-0-0.

The applicant's engineer, Lyn Small of Northeast Engineers & Consultants, reviewed the project site plan. She stated that the drainage concerns of the abutter are under review and will be addressed.

Mr. Adams requested confirmation that the proposed project would result in a reduction in the rate of runoff from the site. Ms. Small confirmed that there would be a reduction. Revision of the storm water plans will be provided for TRC review.

Ms. Small reviewed the requested waivers from the town's commercial development design standards. She introduced the project architect, Mark Regent, who described the proposed buildings and the waivers that are requested for the building design. He stated that as an alternative to the lighted panels proposed for the front of the Toyota dealership, non-illuminated white panels could be substituted.

There was discussion of the proposed traffic flow on the site.

Joe Laham, representing the applicant, stated that there are no plans to use the existing curbcut at the easterly end of the property. All traffic will enter and exit at the main entrance at the traffic signal. The proposed site plan, including the demolition of the front portion of the existing building, will improve the function of this access. Mr. Laham also addressed lighting. He stated that the proposed lighting would be lower than the existing and would be designed to not impact abutting properties.

Mr. Eckhart recognized Arthur Voute. Mr. Voute stated that his

daughter submitted the letter previously referenced, and owns the Montessori school on the abutting property. In July the school was damaged by storm water runoff entering the property from the applicant's property. There is concern that the proposed project not exacerbate the current situation. They have no other concerns with the proposed project.

Motion by Ms. Rearick, seconded by Ms. Owen to continue the matter to the November 14, 2012 Planning Board meeting. Vote: 7-0-0.

16. Philip John Rondina, Request of the Zoning Board of Review for an advisory recommendation on a Special Use Permit application to allow development in Zone 1 of the Watershed Conservation District. Proposed single-family dwelling, 379 Third Beach Rd., Plat 126, Lot 59.

The applicant was represented by attorney Robert M. Silva. A revised site plan was provided by the applicant's engineer, Mike Russell. The parcel is within 200 feet of Paradise Brook.

Mr. Russell described the project, including the location of the proposed septic system. RIDEM approval of the septic system is required. An alternative raised system is likely due to high water table. The entire property is in Zone 1, so there would be no opportunity to locate the system outside of Zone 1 on the lot. Public sewer is not available.

It was noted that the Conservation Commission has reviewed the plan and recommended approval.

Motion by Ms. Rearick, seconded by Ms. Owen, to provide a positive recommendation to the Zoning Board of Review subject to the

following recommended conditions:

- 1. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151), subject to the approval of the Town Engineer prior to the issuance of building permits.**
- 2. The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be limited.**

Vote: 7-0-0

17. Thomas B. & Elizabeth B. Rowe, Request of the Zoning Board of Review for an advisory recommendation on a Special Use Permit application to allow development in Zone 1 of the Watershed Conservation District. Proposed single-family dwelling, 65 Bailey , Plat 120, Lot 300a

Mike Hill represented the applicant. He stated that the plan proposes a single-family residence on an existing lot that is served by public sewer.

Mr. Wolanski stated that the site contains Stissing soils, which is the reason for its classification in Zone 1, rather than proximity to a water body.

Motion by Ms. Rearick, seconded by Ms. Owen, to provide a positive recommendation to the Zoning Board of Review subject to the following recommended conditions:

- 1. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151), subject to the approval of the Town Engineer prior to the issuance of building permits.**

2. The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be limited.

Vote: 7-0-0

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

The meeting adjourned at 9:15 pm

Respectfully submitted:

Ronald M. Wolanski

Town Planner