



Town of Middletown Planning Department

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

PLANNING BOARD MINUTES

OCTOBER 14, 2015

Town Council Chambers, 350 East Main Rd., Middletown, RI

Board members present:

Charlene Rose-Cirillo, Chair
Art Weber, Vice Chair
Betty Jane Owen, Secretary
Matthew Sullivan
Jan Eckhart
Paul Croce
John Ciummo

Ron Wolanski, Planning Director
Peter Regan, Town Solicitor
Christopher McNally, Assist. Town Solicitor

The meeting was called to order by Ms. Cirillo at 6:00pm.

1. Approval of the minutes of the September 9, 2015 regular Planning Board meeting, and the special meeting of September 28, 2015.

Motion by Ms. Owen, seconded by Mr. Sullivan, to approve the minutes of the September 9, 2015 regular meeting and the September 28, 2015 special meeting. **Vote:** 7-0-0.

2. Correspondence

Memo from the Town Planner dated September 11, 2015 regarding administrative subdivision plan approval – Timothy Pafik & Mary Ann Cofran, Plat 129, Lots 65A & 65B

Motion by Ms. Owen, seconded by Mr. Sullivan, to receive the communication. **Vote:** 7-0-0.

3. November 2015 Planning Board meeting date.

Ms. Cirillo stated that the regular monthly meeting date of November 11th is a holiday. She suggested that the board reschedule its meeting for Thursday, November 12th.

Motion by Ms. Owen, seconded by Mr. Weber, to hold the next regular monthly Planning Board meeting on Thursday, November 12, 2015 at 6pm. **Vote:** 7-0-0.

4. Public Hearing - Request of the Zoning Board of Review pursuant to Sections 306, 602 and Article 11 of the Middletown Zoning Ordinance for development plan review and an advisory recommendation on a application of VSH Realty Inc. & Cumberland Farms Inc. & John J. Moitoza Revocable Trust (owners) and First Hartford Realty Corporation (applicant) for a special use permit to allow renovation and expansion of an existing gasoline dispensing facility in Zone 1 of the Watershed Protection District.

Waivers are requested from certain design standards of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land, Section 521. Property located at 94 & 106 Aquidneck Ave. Assessor's Plat 115, Lots 132, 133, 134.

The applicant was represented by attorney Robert M. Silva. Mr. Silva stated that a meeting with the TRC has been scheduled to continue its review of the plans. He requested that the matter be continued to the November Planning Board meeting.

Motion by Mr. Weber, seconded by Mr. Ciummo, to continue the matter to the Planning Board meeting scheduled for November 12, 2015 at 6pm. **Vote:** 7-0-0.

- 5. Request of the Zoning Board of Review for development plan review and recommendation on an application of Mello Realty, Inc, and New Cingular Wireless PCS, LLC AT&T mobility to install a wireless telecommunications facility, subject to the provisions of zoning ordinance Article 25 and sections 602 and 902(A), on property fronting on Coddington Highway, Plat 103, Lot 103.**

The applicant was represented by attorney Robert M. Silva. Mr. Silva stated that the current applicant will no longer be pursuing the application. The plan might be pursued by another company at a later date. He requested that the application be withdrawn without prejudice.

Motion by Mr. Weber, seconded by Ms. Owen, to approval the withdrawal of the application without prejudice. **Vote:** 7-0-0.

- 6. Public Informational Meeting - Prospect Avenue Subdivision, Goldstein Associates, LLC., applicant. - Request for Master Plan approval for a proposed 5-lot major subdivision, including request for waivers, of property fronting on Prospect Ave. The property is identified as Assessor's Plat 121NW, Lot 66-A and is located approximately .3 miles to the east of the intersection of Prospect Ave. and Aquidneck Ave.**

Attorney David Martland represented the applicant. Also present was the applicant's engineer, Lyn Small of Northeast Engineers and Consultants.

Mr. Martland stated that since the last discussion on the matter, a site visit by the Planning Board was held. As a result of the concerns that were raised, several modifications to the plan were made, including changes to proposed lot lines to ensure that all lots meet lot width requirements, and changes to provide additional protection for the existing Beech Tree located on abutting lot 68.

Ms. Small described the plan, noting that the development would be served by public sewer and private wells. In order to protect the tree on the abutting lot the proposed road has been shifted to the west slightly, and berms have been removed, leaving the minimum 20 foot paved surface. Excavation would be reduced by the use of geotextile fabric with a reduced layer of gravel road base, which has been previously approved by the town in another situation. The relocation of an existing utility pole has been revised to move the pole to the opposite side of the proposed road, away from the tree.

Mr. Weber noted the comments provided by the TRC. He asked if concerns over the grade of the road have been addressed.

Ms. Small stated that they had.

Mr. Weber asked if public water is available to serve the subdivision.

Mr. Martland stated that there is no direct access to public water.

Mr. Sullivan asked about the 20 foot roadway width, where 22 feet was previously shown.

Ms. Small stated that the berms near the intersection with Prospect Ave. were eliminated to reduce potential impact on the nearby tree, thereby reducing the width to 20 feet.

Mr. Sullivan asked if a modified sidewalk design could be considered, such as asphalt on one side of the new road. He expressed concern for pedestrian safety, particularly near the intersection with Prospect Ave.

Ms. Small stated that the road and drainage design would be impacted if a sidewalk were to be introduced. A segment of sidewalk might be possible near the intersection without need for significant changes to the drainage design.

Mr. Croce asked if the reason there is no sidewalk is to avoid the need to redesign the drainage system.

Mr. Martland stated that the drainage system could be designed to accommodate a sidewalk, but questioned the need for the sidewalk on a street that serves only five homes. The applicant will review options for providing a segment of sidewalk near the intersection.

Mr. Eckhart asked about the distance of the proposed road from the tree on lot 68 and the species of the tree. Mr. Martland confirm that the tree is an American Beech and stated that it would be 21.5 feet from the road, and is currently 17 feet from Prospect Ave. He provided copies of a letter dated August 14, 2015 from arborist Kenneth A Coelho, Jr. including recommendations on measures that should be taken to protect the tree. The applicant is willing to abide by the recommendations.

Mr. Eckhart stated that any pruning of roots and branches must be done carefully.

Mr. Wolanski suggested that there be a condition of approval requiring implementation of the arborist's recommendations in consultation with the Middletown Tree Commission.

Ms. Cirillo invited comments from members of the public.

Bob Novick, a resident of 278 Reservoir Rd. stated that he believes that zoning relief is needed to allow the plan to proceed. Two of the proposed lots would not meet the lot width requirement.

Mr. Wolanski stated that he had reviewed the plan with the Building/Zoning Official, who has confirmed that the plan, including the proposed lot widths, is in compliance with the requirements of the Middletown Zoning Ordinance.

Steve Fagan of 5 Toni Lynn Ter. stated that he believes that the interpretation of the lot width provision of the zoning ordinance is incorrect and should be reconsidered. He stated that he is a math teacher and that the method used to demonstrate compliance with the ordinance is not appropriate. For a lot with frontage on the cul-de-sac turnaround, the applicant is able to choose whichever tangent line he wishes to demonstrate compliance with the width requirement. If this method is allowed in this case it will set a precedent.

Karen Day, Chair of the Middletown Tree Commission, distributed copies of a memo from Middletown Tree Warden and arborist Alan Kirby, dated October 12, 2015. She stated that the Beech tree is sensitive to construction activity, and requires that disturbance be prevented within 10 feet of the dripline if possible, but at least 5 feet should be required. Damage to the tree might not be apparent until some time after construction. She supported the monitoring program proposed by the applicant.

Christine Fagan of 5 Toni Lynn Ter. stated that she is concerned with the potential precedent that would be set if the plan is approved. She requested that the board table the matter until the lot width issue is resolved.

Mr. Weber request guidance on the lot width discussion.

Mr. Regan stated that the plan has been revised since the first submission to ensure that it meets the requirement of the zoning ordinance.

Mr. Martland stated that there had been discussion of whether section 508 of the subdivision regulations, which requires lot width of 100 feet at the setback where a lot has at least 50 feet of frontage on the cul-de-sac turnaround. He believes that this is the proper standard to apply. His client decided to use the more onerous lot width requirement of 150 feet, and the standard for measurement of section 716 of the zoning ordinance. This plan meets that more restrictive standard.

There was discussion of the need for a written opinion from the Building/Zoning Official as to his interpretation of the lot width requirement, and to see a revised plan relative to the potential provision of a sidewalk. The Tree Commission should have an opportunity to review the recommendations of the applicant's arborist.

Mr. Martland requested that the matter be continued to the November meeting.

Motion by Mr. Weber, seconded by Mr. Sullivan, to continue the matter to the November 12, 2015 Planning Board meeting at 6pm. **Vote:** 7-0-0.

7. Application of Gary Hooks for preliminary plan approval for a 2-lot minor subdivision of land. Property located at 1249 Wapping Rd., Assessor's Plat 128, Lot 9.

The applicant was represented by attorney David Martland. He stated that a prior proposal to divide the subject property had been granted preliminary approval by the Planning Board, but did not receive the necessary zoning relief. The current plan is a modification of the prior proposal. A variance is required for lot area for both lots. One lot also requires frontage relief.

Mr. Sullivan stated that because the issues with the plan are zoning related, the applicant should be allowed the opportunity to proceed to the Zoning Board of Review.

Mr. Weber stated that the applicant should consider options to reduce the amount of zoning relief being requested. It was recommended that the plan be revised to provide the minimum required street frontage for both lots.

Mr. Martland stated that he would discuss this suggestion with his client, and that a continuance of the matter would be in order.

Motion by Mr. Eckhart, seconded by Mr. Weber, to continue the matter to the November 12, 2015 Planning Board meeting. **Vote:** 7-0-0.

8. Updates

Aquidneck Island Planning Commission.

Mr. Wolanski stated that the commission has recently selecting a new executive director. Work on initiatives of interest to the local communities, such as broadband internet access will resume shortly.

Update on BRAC Navy Surplus Land reuse planning process.

Mr. Wolanski stated that there was no news to report regarding the transfer process.

9. Comprehensive Plan Implementation – Update on proposed Zoning Map amendments, and other implementation priorities.

Mr. Wolanski stated that with the addition of the new principal planner to the staff, the department will now be in a position to proceed with preparation for a public workshop on proposed zoning map amendments. By consensus, the board agreed to schedule the public workshop meeting for November 5, 2015 at 6pm.

Mr. Wolanski stated that the Town Council is currently considering a moratorium on development of large shopping centers and retail buildings with a footprint larger than 35,000 square feet.

Mr. Regan explained that the moratorium would be temporary, lasting until early March 2016, in order to provide time to consider zoning amendments related to the "big box" and mixed-use development discussions in the comprehensive plan.

Ms. Cirillo expressed concern over comments made during recent Town Council meetings which questioned the integrity of the process and those involved in completing and adopting the new comprehensive plan, and the lack of an appropriate response from Town Council members.

Mr. Wolanski stated that given the short time frame of the moratorium, the Town Council will likely request that the Planning Board move the discussion of mixed-use and big box development to the top of the priority list. The board would still continue to work on the other high priority items, including bulk zoning and inclusionary zoning for affordable housing.

The consensus of the board was that it would be willing to work on the big box and mixed use items in the near term if requested by the Town Council.

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

Meeting adjourned at 7:35 pm.

Respectfully submitted:

Ronald Wolanski

Planning Director