



Town of Middletown Planning Department

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

PLANNING BOARD MINUTES

APRIL 13, 2016

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

Board members present:

Art Weber, Chair
John Ciummo, Vice Chair
Matthew Sullivan, Secretary
Paul Croce
Elizabeth Drayton
Jan Eckhart

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

Member absent:

Bill Nash

The meeting was called to order by Mr. Weber at 6:00pm.

1. Election of Officers

Motion by Mr. Eckhart, seconded by Ms. Drayton, to nominate and elect Mr. Weber as chair, Mr. Ciummo as vice chair, and Mr. Sullivan as secretary. **Vote:** 6-0-0.

2. Approval of the minutes of the March 9, 2016 regular Planning Board meeting and the special meetings of March 4, 2016 and March 14, 2016.

Motion by Mr. Sullivan, seconded by Mr. Croce, to approve the minutes of the March 9, 2016 regular Planning Board meeting and the special meetings of March 4, 2016 and March 14, 2016. **Vote:** 6-0-0.

3. Correspondence

Memo to the Planning Board from the Town Planner dated March 18, 2016 regarding approval of an administrative subdivision for property of Charles Hamilton located at 80 Paradise Ave., Plat 120, Lots 77 & 919.

By consensus the correspondence was received.

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 an 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.

Attorney David Martland represented the applicant. He stated that the applicant continues to work to secure CRMC approval for the proposed project. He requested that the matter be continued to the May Planning Board meeting.

Motion by Mr. Sullivan, seconded by Mr. Croce to continue the matter to the Planning Board meeting scheduled for May 11, 2016 at 6pm. **Vote:** 6-0-0.

- 5. Windmill Partners LLC (Bank RI), Request of the Zoning Board of Review for an advisory recommendation on an application for a special use permit to allow proposed development in Zone 1 of the Watershed Protection District pursuant to section 1103 of the Middletown Zoning Ordinance. Property located at 132 East Main Rd., Plat 107SE, Lot 200.**

Attorney David Martland represented the applicant. He stated that the applicant continues to work to secure RIDEM approval for the proposed project. He requested that the matter be continued to the May Planning Board meeting.

Motion by Mr. Sullivan, seconded by Mr. Croce to continue the matter to the Planning Board meeting scheduled for May 11, 2016 at 6pm. **Vote:** 6-0-0.

- 6. Public Hearing - Request of the Zoning Board of Review pursuant to Sections 306 and 602 of the Middletown Zoning Ordinance for development plan review and an advisory recommendation on an application of Konstantinos & Eleni Moisiades to allow development of a proposed commercial/mixed-use building on property located at 62 Wave Ave. and 74 Aquidneck Ave, Assessor's Plat 116NW, Lots 2, 2a, & 3.**

On behalf of the applicant, attorney David Martland stated that the applicant's attorney, Robert Silva, was not able to attend the meeting. He requested that the matter be continued to the May 11, 2016 Planning Board meeting.

Motion by Mr. Sullivan, seconded by Mr. Croce to continue the matter to the Planning Board meeting scheduled for May 11, 2016 at 6pm. **Vote:** 6-0-0.

- 7. Konstantinos & Eleni Moisiades, Request of the Zoning Board of Review for an advisory recommendation on an application for a special use permit to allow proposed development in Zone 1 of the Watershed Protection District pursuant to sections 602, 1100 and 1108 of the Middletown Zoning Ordinance. Property located at 74 Aquidneck Ave. and 62 Wave Ave., Plat 116NW, Lots 2, 2A & 3.**

On behalf of the applicant, attorney David Martland stated that the applicant's attorney, Robert Silva, was not able to attend the meeting. He requested that the matter be continued to the May 11, 2016 Planning Board meeting.

Motion by Mr. Sullivan, seconded by Mr. Croce to continue the matter to the Planning Board meeting scheduled for May 11, 2016 at 6pm. **Vote:** 6-0-0.

- 8. 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. He described the status of the plan and revisions that have been made. He noted that as requested by the board, the matter had

been reviewed again by the town's Technical Review Committee. As a result of that review revisions have been made to the plan, including the addition of an asphalt sidewalk on the west side of the proposed road, and the road width has been widened to 22 feet. He noted that the width can be reduced to 20 feet in the vicinity of the tree on abutting property in order to protect the tree, as recommended by the Tree Warden. He stated that his client is comfortable with the recommended conditions of approval as contained in the Town Planner's memo to the board.

Mr. Croce pointed out a note on the plan that references a concrete sidewalk.

Mr. Martland stated that the plan would be revised to indicate the proposed asphalt sidewalk.

Ms. Drayton asked if the turning radius at the entrance to the proposed road would be adequate.

The applicant's engineer, Lyn Small of Northeast Engineers and Consultants, stated that the turning radius meets town standards, and is appropriate for the type of road.

Mr. Weber invited members of the public to address the board.

Stephen Fagan, a resident of 5 Toni-Lynn Terrace, stated that he disagrees with the zoning official's determination that the proposed lots meet the dimensional requirements of the zoning ordinance. He requested that the matter be referred to the Zoning Board of Review for review.

Mr. Croce expressed concern about the language used in the zoning ordinance relative to lot width.

Mr. Weber stated that the Planning Board relies on the determination of the zoning official regarding conformance with the zoning ordinance.

Mr. Regan concurred, stating that the zoning official has used his best judgement in making his determination. An appeal process is available.

There being no other members of the public wishing to speak, Mr. Weber invited board discussion or a motion.

Motion by Mr. Croce, seconded by Mr. Ciummo, to make the five required findings and grant the requested waivers and grant master plan approval subject to the following conditions:

Waivers granted:

- Proposal to include an asphalt sidewalk as part of the new roadway. The regulations call for installation of concrete sidewalks (Subdivision Regulation Sec. 616).
- Proposed road right-of-way less than the minimum required 50 feet. Current frontage of the subject property on Prospect Ave. is approximately 34 feet, which is the proposed right-of-way width at that location. The remainder of the road right-of-way would meet the requirement (Subdivision Regulation Sec. 603).
- Proposed 22 foot wide paved roadway where 26 feet is required, except that the pavement in the vicinity of the Beech tree on abutting lot 68 shall be 20 feet wide. (Subdivision Regulation Sec. 603).
- Proposed modification of road construction standards, including reduced excavation and use of geosynthetic material in order to protect tree roots. (Subdivision Regulation Sec. 611).

Conditions of Approval:

1. The location and routing of the outfall from the drainage area so as to not adversely impact down slope properties must be provided as part of the preliminary plan submission.
2. Required storm water drainage control plans and calculations have yet to be provided, but must be addressed prior to consideration of the preliminary plan. Compliance with the state storm water design manual and town storm water management requirements must be confirmed prior to preliminary plan approval.
3. To avoid potential puddling of runoff on the roadway, the applicant should consider increasing the slope of the road centerline grade to greater than the proposed 1% and the road crown grade to greater than 2%, subject to approval of the Town Engineer and Public Works Director prior to preliminary plan approval.
4. Documentation regarding the ability of the public sewer system to accommodate the proposed development must be provided as part of the preliminary plan submission.
5. New lots will be subject to the Town's development impact fees ordinance, Town Code Chapter 150. A note to this effect must be provided on the preliminary subdivision plan prior to approval.
6. A note must be added to the plan indicated that a public shade tree located on the abutting property, Lot 68, will be protected from harm during construction activity, and that any pruning of roots or branches require prior approval of the Middletown Tree Commission in accordance with the Town's Tree Preservation and Protection Ordinance, §98.05. The recommendations of a licensed arborist shall be adhered to in consultation with, and oversight by Middletown Tree Warden before, during, and after construction activities.
7. The portion of the proposed sidewalk to be located within an easement on abutting property will not become the responsibility of the town for maintenance, but would remain the responsibility of the homeowners association.

Vote: 5-1-0, with Ms. Drayton voting in opposition.

Mr. Croce requested that the Planning Board consider drafting revisions to the Zoning Ordinance regarding the definition and determination lot width.

9. Updates

- **Comprehensive Plan Implementation**

Mr. Wolanski stated that the Planning Board must consider how to proceed with consideration and drafting of the proposed agricultural overlay district. Staff from GrowSmart RI will be assisting, and a steering committee must be established. By consensus the board requested that a subcommittee of board members, and all farmers in town be asked to participate. Mr. Wolanski will work to assemble the committee and schedule a meeting.

Regarding the drafting of the mixed-use ordinance, Mr. Wolanski stated that he would be meeting with the Town Solicitor later in the week to work toward completion of the revised draft. Once the revised draft is available it will be provided to the Planning Board for review.

Regarding bulk zoning, the board by consensus agreed to establish a subcommittee to work on drafting an ordinance to restrict the size of dwellings based on lot size. Mr. Wolanski was asked to coordinate a meeting to begin the process.

- **Aquidneck Island Planning Commission.**

Mr. Wolanski stated that he had no new information regarding AIPC activities.

- **Update on BRAC Navy Surplus Land reuse planning process.**

Mr. Wolanski stated that a public informational meeting on the draft environmental impact statement for the surplus Navy land will be held at Gaudet Middle School on April 14th , 4-8pm.

10. Committee Reports

Mr. Sullivan stated that the Open Space & Fields Committee had recently discussed the proposal for playing fields on the former drive-in property on Aquidneck Ave.

Mr. Croce stated that the Conservation Commission had recently reviewed the Zone 1 Watershed Protection District application for the Donovan subdivision, located at 608 Aquidneck Ave. The commission deferred offering a recommendation to the Zoning Board of Review pending review of the subdivision plan by the Planning Board.

11. Middle Creek Farm Subdivision, Middle Creek Farm, LLC, applicant. - Request for Final Plan approval for a proposed 11-lot major subdivision (5 lots in Middletown) of property straddling the Middletown/Portsmouth town line and fronting on Cornelius Drive and Old Mill Lane, Portsmouth. The property is approximately .25 miles to the east of the intersection of Wapping Rd. and Old Mill Lane. The Middletown portion of the property is identified as Assessor's Plat 128, Lot 73. The Portsmouth portion is identified as Assessor's Plat 68, Lot 71.

Ms. Drayton recused herself from the discussion as she is an abutter to the subject property.

Attorney Neil Galvin represented the applicant. He noted that since the preliminary plan approval the applicant has decided that the proposed road is to become a public road as required by the Town of Portsmouth. The proposed conditions of approval as recommended by the Town Planner are acceptable. Documentation regarding the Town of Portsmouth accepting the road will be provided. There is still no agreement regarding provision of public water to the development.

Mr. Regan stated that he had reviewed the draft legal documents, including drainage maintenance easement and home owner's association documents and found them to be acceptable.

Motion by Mr. Sullivan, seconded by Mr. Croce, to make the five required findings of fact and to grant Final Plan approval subject to the following conditions:

1. Prior to recording, required storm water management plans and calculations must reviewed and approved by the Town Engineer for compliance with the state storm water design manual and town storm water management requirements.
2. Prior to recording, cost estimates needed to calculate performance security must be approved by the Town Engineer, and the security, in a form acceptable to the Finance Director, must be posted. The required performance security must equal at least 125% of the approved cost estimate per section 702 of the subdivision regulations.
3. The Town of Middletown will not accept maintenance responsibility for the segment of new roadway proposed to be located in Middletown. Prior to recording of the subdivision plan, documentation indicating that the public road in its entirety will be accepted by the Town of Portsmouth for maintenance purposes must be provided

Vote: 5-0-0.

12. Daniel D. Donovan, III, applicant. - Request for Preliminary Plan approval for a proposed 2-lot minor subdivision of property located at 608 Aquidneck Ave. Property identified on Assessor's Plat 114, Lot 111.

The applicant was represented by attorney Joseph Hook. Mr. Hook review the proposed plan. The proposed new building lot would have no frontage on Aquidneck Ave. A variance from the Zoning Board of Review would be sought. The new lot would be served by public sewer and public water.

Mr. Weber stated that a proposed easement to provide access to the rear lot from Aquidneck Ave. could not be recorded since both properties would be under common ownership.

Mr. Regan agreed, stating that a declaration of easement could be executed and a note added to the plan.

Mr. Sullivan stated his preference that the applicant seek relief from the Zoning Board of Review before Planning Board review, but understands that the process requires Planning Board review first.

Ms. Drayton questioned the applicant's request for approval of a lot without frontage.

Mr. Regan stated that the process allows for an applicant to seek relief from the Zoning Board of Review.

Mr. Croce asked about the proposed storm drainage plan.

The applicant's engineer, John Braga, reviewed the storm water management plan.

Mr. Sullivan asked about the water table and soils conditions.

Mr. Braga stated that the water table is high, but the plan will meet the town's storm water management requirements.

Mr. Eckhart asked of runoff from the existing house would be directed to the proposed storm water swales, and whether rip rap would be needed.

Mr. Braga stated that the storm water drainage pattern for the existing house would not be changed. Mr. Donovan stated that the runoff would be directed to the existing storm drainage system.

Mr. Wolanski stated that at the building permit stage the builder will be required to provide a storm water management plan for review and approval by the town engineer and building official.

Mr. Weber and Mr. Eckhart expressed concern with creating a lot with no frontage.

Mr. Hook and Mr. Donovan stated that an alternative plan, creating a small amount of frontage on Aquidneck Ave. for the back lot could be considered.

Mr. Sullivan stated that the applicant should have the ability to seek relief form the Zoning Board of Review.

Ms. Drayton expressed concern that approval of the plan could set a precedent for properties with similar configuration.

Mr. Weber suggested that the applicant consider presenting an alternative plan showing some frontage for the back lot on Aquidneck Ave.

Mr. Donovan agreed, and requested that the matter be continued to the next Planning Board meeting.

Motion by Mr. Sullivan, seconded by Mr. Croce, to continue the matter to the May 11, 2016 Planning Board meeting. **Vote:** 6-0-0.

13. Daniel D. Donovan, III, applicant .Request of the Zoning Board of Review for an advisory recommendation on an application for a special use permit to allow proposed development in Zone 1 of the Watershed Protection District pursuant to section 1103 of the Middletown Zoning Ordinance. Property located at 608 Aquidneck Ave. Property identified on Assessor's Plat 114, Lot 111.

Motion by Mr. Sullivan, seconded by Mr. Croce, to continue the matter to the May 11, 2016 Planning Board meeting. **Vote:** 6-0-0.

14. Facing Paradise, LLC, applicant – Request for combined Preliminary & Final Plan approval for a proposed 2-lot subdivision of property located at 970 Green End Ave. Plat 120, Lot 72.

The applicant was represented by attorney David Martland. Mr. Martland asked the applicant's engineer, Mike Russell, to describe the plan.

Mr. Russell described the plan. Existing electric utility lines serving the property would be relocated. The proposed new building lot would be served by private well and public sewer.

Mr. Weber asked about the possibility of accessing public water.

Mr. Russell stated that the applicant is not interested in seeking an extension of the public water main.

Mr. Wolanski reviewed the recommended conditions of approval.

Motion by Mr. Sullivan, seconded by Mr. Croce, to make the five required findings and to grant combined Preliminary and Final Plan approval subject to the following conditions:

1. Prior to recording, the applicant must provide documentation demonstrating approval from the appropriate agencies for connections to public sewer.
2. Prior to recording, the survey must be tied to the State Plane Coordinates System, with coordinates provided on the plan.

Vote: 6-0-0.

15. Review of FY2017-2021 Capital Improvement Program (CIP) for consistency with the Middletown Comprehensive Community Plan.

Mr. Wolanski stated that the Planning Board is asked to review the CIP to determine whether or not projects on the list are consistent with the Middletown comprehensive plan.

Mr. Croce stated that he would like more time to review the projects before determining consistency with the plan. He also suggested that the town's CIP project form be revised to require departments to indicate whether, based on their review, they feel each project is consistent with the comprehensive plan. By consensus the board agreed to make this recommendation.

Mr. Wolanski noted that any change to the CIP project form would not occur until next year.

Motion by Mr. Sullivan, seconded by Mr. Croce, to continue the matter to the May 11, 2016 Planning Board meeting. **Vote:** 6-0-0.

16. Committee appointments – Tree Commission, Open Space & Fields Committee, Conservation Commission.

By consensus of the board Mr. Sullivan will continue to represent the Planning Board on the Open Space and Fields Committee, and Mr. Croce will continue to serve on the Conservation Commission. There were no volunteers to serve on the Tree Commission.

Motion to adjourn by Mr. Sullivan, seconded by Mr. Ciummo. Vote: 6-0-0.

Meeting adjourned at 7:50 pm.

Respectfully submitted:
Ronald Wolanski
Planning Director