



Town of Middletown Planning Department

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

PLANNING BOARD MINUTES

MAY 11, 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
Bill Nash

Ron Wolanski, Planning Director
Peter Regan, Town Solicitor

The meeting was called to order by Mr. Weber at 6:00pm. At the request of Mr. Weber, a moment of silence was observed in recognition of the death of the public works director Tom O'Loughlin's wife.

1. Review of the Town's 2016 CDBG application for consistency with the Middletown Comprehensive Community Plan.

At the suggestion of Mr. Weber, this item was moved to the beginning of the meeting. Mr. Croce asked for clarification regarding item #13, CDBG Affordable Housing Set Aside funds, specifically its \$0 value. Mr. Wolanski explained that this money is set aside by the State of Rhode Island and is applied for on a project-by-project basis. Mr. Croce also asked for clarification regarding the purpose of item #14, Town Administration. Mr. Wolanski explained that this money pays for the administration of CDBG programs, eliminating negative financial impacts for the Town.

Motion by Mr. Croce to find the application consistent with the Middletown Comprehensive Community Plan, seconded by Mr. Ciummo. **Vote** 7-0-0.

2. Approval of the minutes of the April 13, 2016 regular Planning Board meeting.

Mr. Croce requested to edit minutes under item 1: *Election of Officers* to include "nominate and elect" Planning Board Officers in place of simply "nominate", and to correct a typographical error.

Motion by Mr. Ciummo to approve the minutes of the April 13, 2016 regular Planning Board meeting with the proposed edits, seconded by Mr. Eckhart. **Vote:** 7-0-0.

3. 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 115SE, Lots 132, 133, 134.

Attorney Robert Silva represented the applicant. He apologized for the repeated delay of the application in pursuit of Department of Environmental Management and CRMC approval. Attorney Silva stated for the record that state approved plans had been delivered to the Planning Department today and that a Technical Review Committee meeting could now be scheduled. He then requested the matter be continued to the June Planning Board Meeting in order to complete the TRC process. Mr. Nash inquired as to the time and location of the TRC meeting, which Mr. Wolanski stated has yet to be determined. Meetings are posted in accordance with open meetings act requirements.

Motion by Mr. Sullivan, seconded by Mr. Nash, to continue the matter to the Planning Board meeting scheduled for June 8, 2016 at 6pm. **Vote:** 7-0-0.

4. 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.

Mr. Weber began by mentioning that since the last Planning Board meeting a meeting of planning staff with the applicant's representatives was held to review design concerns. Mr. Weber sat in on this meeting. Revised plans have been submitted for consideration.

On a motion by Mr. Sullivan, seconded by Mr. Croce, the board voted unanimously to open the public hearing.

Attorney Robert Silva, representing the applicant, began the hearing by stating that the Middletown Conservation Commission has recommended approval of the project. He drew attention to the applicant reducing the size of the building twice, reducing the number of number of variances and waivers that will be requested. He also presented photographs of the structures currently on the property that will be demolished for the new development.

Mr. Sullivan asked if the height has been reduced. Mr. Silva stated that it has not been but that the height of the structure complies with the zoning ordinance.

Michael Russell, the applicant's engineer, reiterated that the new plan has reduced square footage by 20%, reducing the overall bulk of the structure as well as allowing the applicant to meet the Town's required 25% greenspace.

Mr. Sullivan expressed concern about contaminants in runoff entering the moat around Easton's Pond, to which Mr. Russell explained that this should not occur due to the infiltration and treatment of stormwater on the property. Ms. Drayton asked for clarification about the treatment and Mr. Russell listed Best Management Practices (BMPs), permeable pavers, and low-impact development practices.

Mr. Sullivan expressed further concerns regarding the use of lawn chemicals, to which Mr. Silva replied that the Conservation Commission bans the use of lawn chemicals on the development. Mr. Weber drew attention to the inability of the Town to monitor the use of chemicals. Mr. Wolanski pointed out that the Zoning Board can enforce this through the Zoning Officer but recognized the difficulty in doing so, depending entirely on reporting of violations by others. Mr. Eckhart pointed out the lack of grass on the property, to which Mr. Silva indicated the increased landscaping.

Mr. Silva mentioned the project had met with the Coastal Resources Management Council on four occasions. Mr. Sullivan inquired if the City of Newport had been notified of the development with Mr. Silva responding that they had and that the applicant had received no response.

Mr. Weber invited public input.

Mr. Wolanski noted email correspondence from Nancy Manning of 8 Warren Ave. received on May 1, 2016 at 4:22pm and on May 2, 2016 at 11:56am in opposition to the development, citing aesthetics and obstruction of views.

Terri Flynn of 38 Warren Ave. distributed paperwork regarding the assessment of the property at 38 Warren Ave., specifically highlighting the listing of "Views of Easton Pond" in the description of the parcel. Ms. Flynn also distributed email correspondence with Elizabeth Scott, Rhode Island Department of Environmental Management, listing studies into water quality. She also expressed concerns regarding increased traffic, noise pollution, and non-specific quality-of-life concerns.

Mr. Weber addressed environmental concerns by encouraging faith in State agencies, specifically highlighting CRMC approval of the project. Mr. Croce asked if the Town was aware of studies into water quality, to which Mr. Wolanski replied affirmatively, but the applicant is required to meet current requirements. Mr. Silva stated that water quality conditions would be improved as there is currently no treatment of storm water on the property.

Ms. Drayton and Mr. Eckhart both expressed concern about parking lot runoff. Mr. Silva replied that the applicant originally called for a variance regarding the number of parking spaces but that the reduced building footprint allowed them to meet the full requirement. He mentioned the applicant was open to continued pursuit of the parking variance if the Planning Board would recommend such. Mr. Nash inquired if there would be an impact in runoff with the reduction in parking with Mr. Russell assuring him that runoff would be reduced.

Ms. Flynn again expressed concern about parking, worried visitors would park on her street if there wasn't enough on the lot. She also expressed opposition to the applicant combining three lots to achieve a larger buildable structure.

Mike Flynn, also 38 Warren Ave., expressed opposition to the development on the basis of traffic concerns and the failure of the Town to take a holistic view of development. Mr. Weber replied that the Board has no authority to deny applicant meeting all Town regulations.

The hearing was closed on a motion by Mr. Sullivan, seconded by Mr. Croce, and affirmed by all.

Motion by Mr. Ciummo, seconded by Mr. Nash to grant the following waivers and forward a positive recommendation to the Zoning Board with conditions:

Waivers granted:

- Section 521.2.A.2- Regarding an unbroken plane of a wall exceeding forty feet without a break of at least 48" in plane.
- Section 521.3.D.1- Regarding required minimum 10 foot landscaped buffer along all property lines
- Section 521.3.D.2- Regarding required 20 foot wide landscaped buffer strip abutting a residential use or district.
- Section 521.3.D.3- Regarding required 10 foot landscaped buffer between building and parking/driveway.
- Section 521.3.F.2- Regarding the requirement to provide street trees.
- Section 521.3.F.2- Regarding the requirement to provide parking lot trees (4" caliper required).

Conditions:

1. Prior to permitting, the three subject lots must be merged into a single lot.
2. Prior to the issuance of building permits, plans for storm water drainage control and treatment shall be reviewed and approved by the Town Engineer for conformance with town regulations, including the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151).
3. Prior to permitting the plan must be revised to indicate that pavement restoration to town standards is required in the area of proposed utility trenches crossing Wave Ave.
4. Should it be requested by the applicant, recommend that the Zoning Board of Review consider granting an appropriate modification to the minimum parking space requirement in order for the applicant to provide an equivalent area of additional landscaped space in order to further reduce potential adverse water quality impacts.

Vote: 5-2-0 with Mr. Sullivan and Ms. Drayton opposed.

- 5. 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.**

Attorney Robert Silva explained the process by which this item comes before the Planning Board and explained the requirement to use pollutant-free materials and extensive erosion control measures. Mr. Croce inquired about banning household chemicals.

Mr. Eckhart clarified that the property is connected to the sewer system, which is designed to handle typical household applications without causing issues for the surrounding soils.

Mr. Ciummo expressed concerns regarding the application of snowmelt chemicals, worried about balancing safety and contamination.

Motion by Mr. Ciummo, seconded by Mr. Nash to forward a positive recommendation to the Zoning Board with the following conditions:

1. Prior to permitting the Town Engineer must review plans for compliance 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 and Building Official.
2. Required maintenance of storm water treatment facilities and sewer lines/tanks shall be performed on an ongoing basis in accordance with the approved storm water management plan.
3. The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be prohibited.

Vote: 5-2-0 with Mr. Sullivan and Ms. Drayton opposed.

6. 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 Christopher Behan. Mr. Behan attested to the fact that both proposed lots will meet all zoning requirements except for frontage, with the rear lot specifically being over twice as large as need be. He suggested a hardship is faced given the shape of the lot. He stated that his client is comfortable with the conditions of approval recommended by the Town Planner.

Mr. Wolanski suggested the provision of a shared driveway given the location of the lot in a traffic-sensitive district. The applicant agreed. The current common ownership of the lots precludes conflict, but language regarding the automatic granting of an easement for the driveway should ownership of one or both lots change was suggested.

Mr. Nash inquired if curb cuts would be added, to which Mr. Behan replied no.

John Braga, engineer for the applicant, explained that the existing driveway will be used for access while the "pole" of the flag-shaped rear lot is solely to provide frontage.

Mr. Wolanski suggested requiring the plan to be amended to remove the drawn, but not proposed for construction, second driveway prior to final approval.

Motion by Mr. Sullivan, seconded by Mr. Eckhart, to make the five required findings of fact and to grant preliminary plan approval subject to the following conditions:

1. Regarding the required lot frontage for proposed lot 111B, the applicant must be granted the necessary relief by the Zoning Board of Review in order for the plan to be considered for final approval. The decision of the Zoning Board of Review must be recorded in the land evidence records, with a copy provided to the Planning Board.
2. The proposed new building lot, Lot 111B, is located in Zone 1 of the Watershed Protection District, the applicant must be granted the necessary relief by the Zoning Board of Review in order for the plan to be considered for final approval. The decision of the Zoning Board of Review must be recorded in the land evidence records, with a copy provided to the Planning Board
3. The resulting subdivision lots shall be served by a shared driveway and single access from Aquidneck Ave. The shared access and easement, if necessary, shall be identified on the final plan.

4. Prior to Final Plan approval the applicant must provide utilities easement documents for review and approval by the Town Solicitor.
5. Prior to Final approval, the applicant must provide documentation demonstrating approval from the appropriate agencies for connections to public sewer and public water.
6. The new development lot (Lot 111B) 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 final approval.
7. 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)."
8. The survey must be tied to the State Plane Coordinates System.

Vote: 7-0-0.

7. **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.**

Mr. Weber reminded the Board that the stissing soil that makes the property a part of Watershed Protection District 1 is a concern for septic systems but that the property in question is connected to the sewer system.

Mr. Donovan explained that stormwater currently filters and infiltrates along the length of the property, >600', before ultimately entering stormwater drains, a feature he intends to preserve. In response to Mr. Eckhart's concerns about the siting of the building, Mr. Donovan clarified that the building would be on stissing soil and include a basement, but the elevation of the building and creation of a gravel drain would eliminate the need for pumps. Mr. Wolanski stated that Mr. Donovan will be required to comply with the Town Stormwater Ordinance at the time of construction.

Motion by Mr. Sullivan, seconded by Mr. Ciummo, to forward a positive recommendation to the Zoning Board subject to the following 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). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153.
2. The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be prohibited.

Vote: 7-0-0.

8. **Public Hearing- Windmill Partner, LLC (Bank RI), Request of the Zoning Board of Review for Development Plan Review pursuant to Sections 306 and 602 of the Middletown Zoning Ordinance and an advisory recommendation on an application to allow development of a proposed commercial building on the property located at 132 East Main Road, Assessor's Plat 107SE, Lot 200.**

By consensus the public hearing was opened.

Attorney Robert Silva, on behalf of the applicant, clarified that RI DEM has jurisdiction over Bailey Brook in this location and that their impact study found that there would be insignificant impact to the watershed. He stated that the necessary physical alternation permit has already been obtained from the Department of Transportation. He then submitted the traffic safety study. The applicant has coordinated with RIDOT regarding the ongoing road work on East Main Rd.

Molly Titus, the applicant's engineer, explained that the proposed development will reduce the current square footage built on the property, reduce the amount of parking, and reduce the total paved area of the lot. She also explained that stormwater, which currently flows untreated directly into Bailey Brook, will be filtered on-site before entering the waterway. There was discussion regarding the contamination under the pavement due to the site's history as a gas station, with Ms. Titus addressing all concerns.

Rod Toblowski, the applicant's architect, described the structure to be erected, again mentioning the reduction in impervious surfaces, the lack of traffic that will be generated due to the type of structure, specifically the lack of drive-through, and describing the materials to be used. The Board expressed their appreciation of the applicant following the design standards closely with Mr. Eckhart expressing his hope that the materials appear more traditional than modern.

Mr. Wolanski reviewed comments received from the tree commission. Mr. Silva stated that the plan will be revised to address the concerns. Mr. Wolanski pointed out that there are no street trees present in the plan because RI DOT would not allow them to be planted in the right-of-way. The tree commission requests a notation on the plan indicating that the owner will pursue approval from RIDOT to plant street trees upon completion of the road project.

Mr. Weber invited public input. There were no public comments received.

By consensus the public hearing was closed.

Motion by Mr. Sullivan, seconded by Mr. Croce, to grant requested waivers and provide a positive recommendation to the Zoning Board subject to the following conditions:

1. The final design detail for the road edge along the Rego Rd. frontage will be determined at the time of construction, subject to the approval of the Director of Public Works.
2. Prior to the issuance of building permits, plans for storm water drainage control and treatment shall be reviewed and approved by the Town Engineer for conformance with town regulations, including the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151).
3. The landscaping plan shall be revised per request of the Middletown Tree Commission to substitute the proposed Kwanzan cherry adjacent to Rego Rd. with either an October Glory maple or a Columnar Sargent cherry. A note shall be added to the landscaping plan stating that it is the owner's intention to seek RIDOT approval to plant street trees within the East Main Rd. right-of-way along the frontage of the subject property upon completion of ongoing state roadway work.

Waivers granted:

- Section 521.3.C – Regarding screening elements required along all property lines.
- Section 521.3.D.1 – Regarding required minimum 10 foot landscaped buffer along all property lines.

- Section 521.3.D.2 – Regarding the required 20 foot wide landscaped buffer strip abutting a residential use or district.
- Section 521.3.D.3 – Regarding required 10’ landscaped buffer between building and parking/driveway.
- Section 521.3.F.1 - Regarding the requirement to provide street trees.

Vote: 7-0-0.

9. 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 Road, Plat 107SE, Lot 200.

Attorney Robert Silva, representing the applicant, explained that they had complied with all recommendations and requirements regarding stormwater management.

Motion by Mr. Sullivan, seconded by Mr. Ciummo, to provide a positive recommendation to the Zoning Board subject to the following conditions:

1. Prior to permitting the Town Engineer must review plans for compliance 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 and Building Official.
2. Required maintenance of storm water treatment facilities and sewer lines/tanks shall be performed on an ongoing basis in accordance with the approved storm water management plan.
3. The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be prohibited.

Vote: 7-0-0.

10. Request of the Zoning Board of Review for an advisory recommendation on a petition of William & Elizabeth Gill & David Lawrence on an application for a special use permit to allow proposed development of a 37-unit Senior Independent Living Facility in Zone 1 of the Watershed Protection District pursuant to sections 1106 and 2202 of the Middletown Zoning Ordinance. Property Located at 1 Thelma Lane, Plat 111, Lots 14, 23, & 23B.

The applicant was not present.

Mr. Wolanski stated that he had talked with the applicant’s attorney who requested that the matter be continued in order for the subject application to be heard during the same meeting as the anticipated development plan review application.

Motion by Mr. Ciummo, seconded by Mr. Sullivan, to continue the matter to the June 8, 2016 Planning Board meeting. **Vote:** 7-0-0.

11. 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. Eckhart inquired if BMPs to control Maidford River flooding are High-Priority and Mr. Wolanski confirmed that they are. Mr. Eckhart inquired if the East Main Water Line extension is in the CIP with Mr. Wolanski explaining that it is not.

Mr. Croce inquired about his previous recommendation 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. Mr. Wolanski noted that any change to the CIP project form would not occur until next year. The recommendation will be provided to the Town Administrator.

Motion by Mr. Ciummo, seconded by Mr. Sullivan, to find the FY2017-2021 Capital Improvement Program consistent with the Middletown Comprehensive Community Plan.

Vote: 7-0-0.

12. Updates

- **Comprehensive Plan Implementation**

Regarding the creation of a steering committee for the drafting of an agricultural overlay district, Mr. Wolanski explained that no comprehensive list of farmers is available and suggested inviting the known entities. He also conveyed Scott Millar of GrowSmart RI's opinion that it is helpful to get perspectives from individuals and organizations that are not farmers as well. Mr. Weber requested that members review and comment on the list of potential members provided by Mr. Wolanski.

Regarding the drafting of the mixed-use ordinance, Mr. Wolanski stated that a newly updated draft had been received that day and would require further work. Town Solicitor Peter Regan also mentioned pending State legislation that would allow the Planning Board to grant variances in comprehensive developments. A subcommittee for review was formed, including Mr. Sullivan, Mr. Nash, and Mr. Croce.

A subcommittee comprised of Mr. Nash, Mr. Weber, and Mr. Croce was composed to review the proposed Bulk Zoning Ordinance.

- **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 the assessment process for the Navy Surplus Land located on West Main Road was nearing completion.

- **Committee Updates.**

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

Meeting adjourned at 8:42 pm.

Respectfully submitted:
Ronald Wolanski
Planning Director

