



Town of Middletown Planning Department

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

PLANNING BOARD MINUTES

FEBRUARY 8, 2017

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

Board members present:

Art Weber, Chair

John Ciummo, Vice Chair

Matthew Sullivan, Secretary

Paul Croce

Bill Nash

Liz Drayton

Ron Wolanski, Planning Director

Peter Regan, Town Solicitor

Marisa Desautel, Assistant Solicitor

The meeting was called to order by Mr. Weber at 5:30pm.

1. Public Meeting – Request of the Town Council for an advisory recommendation on a petition of Horan Building Company, Inc., for proposed amendments to the Middletown Zoning Ordinance, section 602 regarding uses permitted in the office park (OP) zoning district, and section 702 regarding the allowed number of principal buildings on a lot in the office park (OP) district.

The petitioner was represented by attorney Michael Miller, who reviewed the petition. He discussed his client's intended use for property he owns in the Aquidneck Corporate Park. No outdoor storage of equipment is proposed, therefore the proposal to restrict outdoor storage is acceptable. He noted the types of vehicles and equipment being stored on other properties on the park.

Mr. Miller called commercial real estate broker Steve Kirby to testify. Mr. Kirby stated that contractors and similar businesses are being driven out of town due to the lack of suitable commercial space. Contractors need office space to run their businesses and meet with clients. Mr. Horan's business would be an asset to the park.

Mr. Weber asked about the vacancy rate in the Aquidneck Corporate Park. Mr. Kirby stated that the vacancy rate is 16%.

Mr. Croce asked if there have been complaints about equipment being stored on other properties in the park. Mr. Miller stated that he is not aware of any complaints.

Ms. Drayton asked about the restriction on outdoor storage being applied only to contractor businesses. Mr. Wolanski stated that the assistant solicitor, Ms. Desautel, has concern with the draft proposal provided to the board that would limit the size of trucks stored outdoors in the OP district, but only for contractor businesses. This would be discriminatory.

Ms. Desautel stated that she is also concerned with the lack of definitions in the zoning ordinance for what constitutes equipment and storage. Additional review is needed before the board considers sending its recommendation to the Town Council.

Mr. Miller introduced the petitioner, Mr. Horan, who stated that in addition to office space, he would conduct carpentry, cabinet making, and painting inside the building. Equipment would be stored indoors.

Mr. Nash asked about the amount of space that would be needed for the office use. Mr. Horan stated that about 800 sq.ft. of office space would be needed.

Mr. Horan noted the improvements he intends to make to the property, including a new roof, landscaping, lighting, and repair to the parking lot.

Mr. Weber opened the discussion for public input.

Mark Perotti stated that his business is a tenant in the Aquidneck Corporate Park. Allowing Horan Building to locate in the park would result in an improvement.

Blake Henderson, owner of 55 John Clarke Road, stated that he is in favor of the proposed amendments as they would allow for more diversity in the Aquidneck Corporate Park.

Carrie Ortner, a resident of 12 Julia Court, stated that she is opposed to the amendment that would allow for additional buildings to be constructed in the Aquidneck Corporate Park. She is also concerned with the impact on the abutting residential neighborhood of allowing construction businesses to locate in the park.

Terri Flynn, a resident of 34 Warren Ave., asked about the town's purpose and vision for the Aquidneck Corporate Park. Mr. Weber discussed the history of the development of the park, and stated that since its development the park has been an important economic engine for the town. It must also be a good neighbor.

Attorney David Martland, representing Brookwood Financial Partners, property owner in the Aquidneck Corporate Park, stated that his client is opposed to the proposed amendments. He questioned whether contractor uses are appropriate in the corporate park. He stated that the park is discussed to the Middletown comprehensive plan as being intended for high tech businesses. There are other locations in town that are better suited for contractor uses. Enforcement of any limitations put on contractor uses would be difficult.

Amy Gray, a representative of Brookwood Financial Partners, stated concern that allowing contractors to locate on the Aquidneck Corporate Park would degrade the park's image and make it more difficult find tenants to fill space.

Mr. Miller stated that the proposed zoning amendments and introduction of the proposed contractor business would not denigrate the park. His client's parcel is large and its use would not adversely impact abutters. He provided photographs of equipment and boats being stored on other properties in the park. He requested that the Planning Board provide a positive recommendation to the Town Council.

Mr. Weber noted the recommendation of the assistant solicitor that the matter be continued to allow for additional review.

Motion by Mr. Sullivan, seconded by Mr. Nash, to continue the matter to the March 8, 2017 Planning Board meeting, and that the meeting should begin at 5:30pm. **Vote:** 6-0-0.

2. **Approval of the minutes of the January 11, 2017 regular Planning Board meeting and the special meetings of January 5, 2017, and January 9, 2017.**

Motion by Mr. Sullivan, seconded by Mr. Nash, to approve the minutes of the January 11, 2017 regular Planning Board meeting and the special meetings of January 5, 2017, and January 9, 2017. **Vote:** 6-0-0.

3. **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 36-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 at the request of the Planning Board the plans for the proposed project had been forwarded to the Town's consulting engineer. The applicant's engineer and the town's consultant will meet to review the concerns identified in the report. There may also be a need to re-advertise the hearing due to a revision to the notice.

Motion by Mr. Sullivan, seconded by Mr. Croce, to continue the matter to the March 8, 2017 Planning Board meeting at 5:30pm. **Vote:** 6-0-0.

4. **Public Hearing - Request of the Zoning Board of Review for an advisory recommendation on an application for Development Plan Review, KREG, LLC (William & Elizabeth Gill & David Lawrence, owners) for a special use permit to allow proposed development of a 36-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 at the request of the Planning Board the plans for the proposed project had been forwarded to the Town's consulting engineer. The applicant's engineer and the town's consultant will meet to review the concerns identified in the report. There may also be a need to advertise the hearing due to a revision to the notice.

Motion by Mr. Sullivan, seconded by Mr. Croce, to continue the matter to the March 8, 2017 Planning Board meeting at 5:30pm. **Vote:** 6-0-0.

5. **Public Hearing – Request of the Zoning Board of Review pursuant to section 308 of the Middletown Zoning Ordinance for Development Plan Review on a petition of Middletown Self-Storage, LLC for a special use permit to allow construction of a 68,000 sq.ft. addition to an existing commercial building to be used for self-storage, and associated site work on property located in the limited business traffic sensitive (LBA) district. Property located at 875 & 909 Aquidneck Ave., Plat 114, Lots 657 & 758.**

Motion by Mr. Croce, seconded by Mr. Nash, to open the public hearing. **Vote:** 6-0-0.

The applicant was represented by attorney David Martland who described the history of the ownership of the subject property and prior design concepts. The current proposed design responds to concerns expressed by abutting property owners. The design also requires the relocation of an existing water main, which Newport Water has approved.

Mr. Sullivan asked about the height of the proposed addition and how it was determined. Mr. Martland described the method used, which is consistent with the method required by state statute.

There was discussion of the building height in comparison to existing trees on the site. Revised building elevations were presented, as was a profile sketch of the site. The applicant confirmed that on average, the proposed building would be two feet taller than the evergreen trees located along the easterly property line.

The applicant's engineer, Michael Russell, reviewed the revised site plans, which now show the relocation of the sewer line serving the dwelling located on abutting Lot 757 and the relocated water easement the will cross Lot 757.

Mr. Sullivan asked about the operating hours for the business. The applicant, Jonna Reed, stated that the office hours are 8:30am-4:30pm Monday thru Saturday and 8:30am -1pm on Sunday. The building can be accessed by customers using keypad access doors 6am-10pm. She is not aware of any complaints about the business hours.

Mr. Ciummo asked about exterior lighting. Mr. Russell stated that the lighting will consist of wallpacks that will be dark-sky compliant.

Mr. Sullivan asked about the future use of 160 Honeyman Ave. (Lot 757). Mr. Martland stated that the existing residential use will continue. A driveway to the property from Honeyman Ave. will be reestablished.

Mr. Weber stated that the Planning Board will be considering an amendment to the future land use plan to designate that lot for residential use in the comprehensive plan.

Mr. Croce expressed concern about the size and design of the proposed addition. He asked if a New England-style design could be considered. Mr. Martland stated that they are trying to work with the design of the existing former Sturms building. The addition will incorporate windows and will be clad in Hardiplank simulated clapboard siding.

Mr. Croce stated that he is concerned with the impact on the abutting residential neighborhood.

Applicant Bob Reed stated that the design is an attempt to tie the addition into the architecture of the existing building.

Mr. Martland asked Mr. Russell if the project would have an adverse impact on the health, safety or welfare of the neighborhood. Mr. Russell stated that it would not.

There was discussion of the waivers from the commercial development design standards that are requested.

Mr. Nash noted that the addition is a four-story building including one story that will be substantially below grade. A large amount of fill will have to be removed. Mr. Reed agreed.

Mr. Martland stated that the proposed building height at the rear elevation of 33 feet is consistent with the residential building height limit of 35 feet. He noted that the project is in compliance with the Middletown comprehensive plan in that it constitutes infill development of an existing commercial property, which the plan calls for.

Mr. Weber opened the hearing to the public.

Mr. Wolanski noted correspondence that the board had received from abutting property owner Karen Reese of 148 Honeyman Ave.

Antonio Silvia of 170 Honeyman Ave. stated that the proposed addition is too big. There will be impacts on the neighborhood from trucks accessing the property. Some trees along the property line have been removed, and there are impacts from lights and trash.

Karen Reese of 148 Honeyman Ave. expressed concerns over the impact on the neighborhood, including visual impacts, and impact from lighting. She stated that the plan is not consistent with some provisions of the comprehensive plan.

Mr. Croce asked if there had been conversations with the applicant about potential compromise on the design. Ms. Reese stated that she had not had such conversations with the applicant.

Joe Roche, a resident of 178 Honeyman Ave. stated that given the new information provide during the meeting, which the public has not had a chance to review, the matter should be continued to the next meeting.

Mr. Sullivan stated that a continuance would be in order. Mr. Wolanski stated that the applicant would have to agree to continuance because the timeframe for providing a recommendation to the Zoning Board of Review has expired.

Mr. Nash stated that the hearing should proceed, while Mr. Weber stated that a continuance may be needed.

Mr. Martland stated that submission of the revised materials was in response to recommendations by the Technical Review Committee, and was provided as soon as possible. He also stated in response to the question regarding potential compromise, that his client has made significant changes to the plans, resulting in additional costs, in order to address the abutters' concerns.

Mr. Wolanski stated that the board's policy has been that new materials not included in the packets provided to members prior to the meeting will not be considered during the meeting. Board members discussed the need to make materials available for public review prior to the meeting.

Ms. Drayton requested a rendering to depict how the proposed building addition would relate to the existing Middletown Self-Storage building.

Mr. Martland requested a recess to discuss the issues raised with his client.

The Planning Board took a ten-minute recess. When the board reconvened Mr. Martland requested that the matter be continued to the March 8, 2017 Planning Board meeting.

Motion by Mr. Ciummo, seconded by Mr. Sullivan, to continue the matter to the March 8, 2017 Planning Board meeting, keeping the public hearing open. **Vote:** 6-0-0.

6. Discussion of potential amendments to the Zoning Ordinance and Rules and Regulations Regarding the Subdivision and Development of Land regarding density limitations for conservation development.

Mr. Wolanski provided the board with drafts of proposed revisions to the zoning ordinance and subdivision regulations that would eliminate ambiguity regarding the determination of density in conservation developments. The Town Solicitor is continuing to review the proposal.

Motion by Mr. Ciummo, seconded by Mr. Sullivan, to continue the matter to the March 8, 2017 Planning Board meeting. **Vote:** 6-0-0.

7. Public Informational Meeting – Eugene Goldstein, applicant. - Request for Master Plan approval, including request for waivers from certain provisions of the subdivision and land development regulations, for a proposed 8-lot major subdivision of property fronting on Prospect Ave. The property is identified as Assessor's Plat 121NW, Lot 66-A and is located approximately 0.3 miles to the east of the intersection of Prospect Ave. and Aquidneck Ave.

The applicant was represented by Attorney David Martland.

Mr. Sullivan asked if the plan had been properly certified by a licensed land surveyor. Mr. Martland stated that it had.

Mr. Martland reviewed the proposed subdivision and plans.

There was discussion of the proposed homeowners association and the waivers that are requested.

Mr. Wolanski confirmed that the waivers requested are the same as granted for the prior subdivision application involving the subject property.

The applicant's engineer, Lyn Small of Northeast Engineers & Consultants, provided a revised plan dated February 8, 2017. She reviewed the modifications that were made, including the road construction proposed at the entry from Prospect Ave.

Mr. Ciummo asked if the size of the proposed homes has been confirmed. Mr. Martland stated that the size of the homes has not been confirmed.

Mr. Weber opened the meeting to public input.

Virginia Bulcao of 9 Toni Lynn Terrace stated concern about the number of homes proposed to abut her property.

Stephen Fagan of 5 Toni Lynn Terrace stated that he had attended the Technical Review Committee meetings. He stated that committee members were conversing with the applicant's representatives in manner he did not approve of. He compared the conversation to "collusion". He stated concerns with conformance with the comprehensive plan and requirements of the town regulations, such as density, and impacts on wells, stone walls, and storm runoff. He stated that the applicant must meet certain findings in order to be able to proceed with a conservation subdivision plan application.

Mr. Wolanski stated that town regulations require submission of a conservation plan for all major subdivisions. The applicant has the ability to request that a conventional plan be considered, subject to Planning Board approval.

Mr. Nash, noting the number of concerns raised, requested that Mr. Fagan consider submitting written comments.

Barbara Arietta, a resident of Prospect Ave. stated that she has concern of the impact of eight new wells on the quality and quantity of water from existing wells in the area. There is also need for fire protection in the area.

Mr. Weber asked if the applicant had looked at these issues.

Mr. Martland stated that the cost of bringing public water to the site would make the project infeasible.

Mr. Wolanski noted the correspondence the board had received from the Fire Chief regarding a desire to provide water for fire protection in the area. He stated that the Town does not currently have a project or program in place for water line extension to which the applicant could be asked to contribute.

Mr. Martland stated that his client is considering installing fire suppression systems in the proposed homes that would not require water.

Brian Skelly, a resident of 172 Prospect Ave. stated that he is concerned about impact on wells in the area. He also questioned whether the property has adequate frontage on Prospect Ave.

There being no one else wishing to speak, Mr. Weber closed the public input session.

Mr. Wolanski reviewed the recommended conditions of approval, requested waivers and findings that the board must make.

Mr. Croce asked how the concern about impacts on wells can be addresses. Can an analysis be performed? Mr. Martland noted that as lots are developed the adequacy of the individual wells must be confirmed before the building permit will be issued.

Mr. Regan stated that the board should be careful about requesting analysis that it has not typically required in similar cases. The applicant will provide more detailed information at the preliminary plan stage of review.

Motion by Mr. Ciummo, seconded by Mr. Croce, to make the five required findings of fact and to approve the master plan subject to following conditions and waivers:

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 (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 homeowner's association.

Vote: 6-0-0.

8. Gary N. Lapidus, Request for preliminary subdivision plan approval of a 2-lot subdivision of land located at 107 Briarwood Ave, Plat 116NE, Lot 6.

The applicant was represented by Paul Tobak, real estate broker. He reviewed the plan.

There was discussion that zoning relief is needed to allow for creation of a lot with less than the required lot area, as well setback relief for the existing dwelling on the property.

Ms. Drayton asked about the location of the driveway to serve proposed lot B. Mr. Tobak stated that the driveway will likely be located as far from the intersection as possible.

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

1. Regarding the required zoning relief, 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 prior to final plan approval.
2. Prior to Final approval, the applicant must provide documentation demonstrating approval from the Department of Public Works for connection to public sewer.
3. The new development lot (Lot B) 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 subdivision plan prior to final approval.

4. 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).”
5. The survey must be tied to the State Plane Coordinates System, with coordinates provided on the final plan.

Vote: 6-0-0.

9. Request of the Zoning Board of Review for an advisory recommendation on special use permit application of Middletown Associates (East Bay Village), development plan review for proposed construction of garages on property located at 969 West Main Rd., Assessor's Plat 106, Lot 142.

The applicant was represented by attorney Robert Silva. He described the proposal to construct additional garages consistent with those previously approved. He discussed the zoning relief that is needed.

Motion by Mr. Sullivan, seconded by Mr. Ciummo, to make the required findings of fact and to forward a positive recommendation on the proposal to the Zoning Board of Review. **Vote:** 6-0-0.

10. Updates

1. **Agricultural overlay district** – Mr. Wolanski stated that he will provide the revised draft to the Town Solicitor for review. Following that review the Planning Board should consider scheduling a public workshop meeting.
2. **Mixed-Use Zoning**- The latest draft will be reviewed, following which the Planning Board should consider scheduling a public workshop meeting.
3. **Residential bulk zoning**- Local architect John Grosvenor has offered his assistance in evaluating options. He is planning to attend the March 8th Planning Board meeting to discuss the topic.
4. **Update on activities of the Aquidneck Island Planning Commission.** Mr. Wolanski stated that he had no update on activities of AIPC.
5. **Update on BRAC Navy Surplus Land reuse planning process.** Mr. Wolanski and Mr. Regan stated that the town has an agreement to purchase the former Navy Lodge parcel subject to completion of required environmental review.

Committee reports – There were no committee reports.

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

Meeting adjourned at 9:15 pm.

Respectfully submitted:
Ronald Wolanski
Planning Director