



## Town of Middletown Planning Department

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

### PLANNING BOARD MINUTES November 8, 2017

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

#### **Board members present:**

Paul Croce, Chair  
Matt Sullivan  
Bill Nash  
Terri Flynn  
Jim Williams  
B.J. Owen  
Liz Drayton

Rita Lavoie, Principal Planner  
Peter Regan, Town Solicitor

*Paul Croce called the meeting to order at 6:00pm*

#### **1. Approval of the minutes of the September 13, 2017 and October 11, 2017 regular Planning Board meeting, and special meetings of September 21, 2017, October 17, 2017, and October 23, 2017.**

- a) Motion by Ms. Owen, seconded by Mr. Sullivan to approve the amended minutes of September 13, 2017
  - Vote 7-0-0
- b) Motion by Mr. Sullivan, seconded by Ms. Owen to approve the amended minutes of September 21, 2017
  - Vote 7-0-0
- c) Motion by Mr. Sullivan, seconded by Mr. Williams to approve the minutes of October 11, 2017
  - Vote 7-0-0
- d) Motion by Mr. Sullivan, seconded by Mr. Williams to approve the minutes of October 17, 2017
  - There was discussion of correcting typos includes changing “under 10,00” to “under 10,000”
  - Motion was amended to approve the amended minutes
  - Vote 7-0-0
- e) Motion by Mr. Sullivan, seconded by Mr. Nash to approve the minutes of October 23, 2017

Amended 12-12-17

- There was discussion on changing language on page 3 to read that maximum height “should not exceed” and listing subcommittee members and chair
- Motion was amended to approve the amended minutes
- Vote 7-0-0

## 2. Correspondence

- a) Motion by Mr. Nash, seconded by Mr. Sullivan to receive an email from Sara Poirier dated October 12, 2017 titled planning board hearing re Brennan Property
  - Vote 7-0-0
- b) Motion by Mr. Nash, seconded by Ms. Owen to receive an email from Kathleen Kosinski dated November 8, 2017 titled planning board meeting cancellation
  - Vote 7-0-0
- c) Motion by Mr. Nash Seconded by Mr. Sullivan to receive an email from Kathy Davis dated November 8, 2017 titled Brennan proposed development – Mitchell’s Lane
  - Mr. Croce noted that the author requested her letter to be read out loud, which will be honored during the public informational meeting section of the agenda
  - Vote 7-0-0

## 3. Continuances

- a) Application by Ronald Corriveau for Preliminary Plan approval for a proposed 2-lot subdivision of property located at 566 East Main Road, further identified as Plat 113, Lot 160A.
  - Motion by Ms. Flynn, seconded by Ms. Owen to continue the item to the December, 13, 2017 regular planning board meeting at the request of the applicant.
  - Vote 7-0-0
- b) **Public Hearing** - Prospect Avenue Subdivision, Eugene Goldstein, applicant. - Request for combined Preliminary and Final Plan approval 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
  - Motion by Ms. Flynn, seconded by Ms. Owen to continue the item to the December, 13, 2017 regular planning board meeting at the request of the applicant.
  - Vote 7-0-0
- c) **Public Informational Meeting** – Peckham Lane Subdivision, Sean Napolitano, applicant. - Request for Master Plan approval for a proposed 24-lot major subdivision of property fronting on Peckham Lane. The property is identified as Assessor's Plat 124, Lots 39, 105, 106 and is located approximately .3 miles to the north of the intersection of Peckham Lane and Wapping Rd.

- Motion Ms. Flynn, seconded by Mr. Sullivan to continue the item to the December 13, 2017 regular planning board meeting at the request of the planning board to schedule a site visit, refer the item to the Technical Review Committee and initiate review by the Town's consulting engineer.
- Vote 7-0-0

#### **4. Discussion on Planning Board procedures regarding meeting end times.**

- Mr. Croce offered a new planning board procedure of not beginning to deal with any new applications after 9:00pm
- There was a motion by Mr. Sullivan, seconded by Ms. Flynn to adopt the new policy to not start any new applications after 9:00pm
- There was discussion on hearing small items after 9:00pm
- Vote 7-0-0

#### **5. Old Business**

**a) Public Informational Meeting** - Request of Mark Brennan for Master Plan approval, including request for waivers from certain provisions of the subdivision and land development regulations, for a proposed 11-lot major subdivision of property fronting on Mitchell's Lane. The property is identified as 430 Mitchell's Lane, Assessor's Plat 124, Lots 13, 14, 14a, 15, and is located approximately 1300 feet to the north of the intersection of Mitchell's Lane and Fayal Lane.

- Mr. Williams recused himself from this item and left the bench
- Motion by Ms. Owen, seconded by Ms. Flynn to open the public informational meeting
- Vote 6-0-0
- Mr. Bob Silva, attorney for the applicant, introduced himself and provided an overview of the project, which is a conservation development of 11 lots. He noted the amount of open space, lot size, and configuration of the project which has a communal septic system. Mr. Silva provided an overview of the development approval process.
- Mr. Chris Duhamel, engineer for the applicant, reviewed the proposed plans including design alternatives. He spoke of the density, wetlands, open space requirements, lack of public water and sewer, buffers and boundaries, denitrification units on each household, maintenance of the community septic system, DEM approvals, roadway design.
- Mr. Duhamel indicated the applicant is requesting a waiver for road pavement width.
- There were questions by the board for Mr. Duhamel and Mr. Silva relating to:
  - The water table and leach field
  - Alarm systems on the community septic
  - Septic system's placement and open space calculations
  - Language on condition number 5 regarding "qualified professionals"

- Preserving the gravel path on the northern boundary
  - Access to the pond by the public
  - Right to access the pond
- Public was invited to speak
  - **Kathleen Kosinski of 441 Mitchel's Lane** told the board that she lived next to the subject property for 41 years. She asked question about the Prescott Point communal septic system and how well water impacts the design of this project. She read from a prepared statement listing the rural character, wildlife, and concerns over the number of homes, wells, and communal septic system. She felt the character of the neighborhood would change and cited concerns over the poor drainage and water quality. She urged the board not to approve the project and suggested requiring water and sewer connections to proceed.
  - **Roberta Faria of 9 Cardoza Terrace** told the board of her pristine vista and high water table in the area. She asked how the Town's storm water regulations will be met. She provided the board with photographs and materials from the University of Rhode Island regarding storm water issues. She asked how the project met the Town's subdivision regulation section 103, number 11, which provides for a diversity of lot sizes and Section 513, which states minimum lot size could be increased based on septic system disposal site requirements and section 608. She mentioned that a half acre seems small based on the limitation of the property. She asked if the proposed drainage area is adequate and how the water table will be lowered to four feet.
  - Mr. Nash responded that many of Ms. Faria's questions will be addressed at the preliminary plan stage.
  - **Bill Gormly of 395 Mitchell's Lane** mentioned concerns regarding water supply and the impact of the proposal on existing wells. He asked about sub-drain regulations.
  - **Kevin Kosinski of 452 Mitchell's Lane** asked about a power failure and how that will affect the communal septic system. He mentioned issues with Sherwood Estates. He asked about financial responsibility of the system and the proximity of system to his well, he believed that his well location on the plans was not accurate. Mr. Kosinski asked about stonewalls preservation, traffic, roadway flooding, impact on the nearby wells, and Town's ability to fight fires without a public water supply.
  - **Jen Perrik of 417 Kane Ave** thanked the Brennan's for their development in the Town and mentioned the generosity of the Brennan family, who allowed neighbors to use property over the years. She mentioned Middle Creek Farm as a development she felt was done well, developed by the Brennan family.
  - **Marilyn Hennessey of 408 Mitchell's Lane** thanked the Brennan's for using their property including skating and fishing on the pond. She understands that the Brennan's are looking to develop and see a return on their investment. She mentioned the beauty of the property and wildlife, and felt that the property is one of Middletown's jewels that could be ruined by human error

and over development. She encouraged managed development of the town. She thanked the board for their work.

- **Theresa Spengler of 1111 Wapping Road** cited concerns of runoff and impacts on wells on Wapping Road. She mentioned salt, sand, oil and septic system including high nitrate levels in the water.
- Mr. Croce read out loud a letter from Kathy Davis dated November 8, 2017, as requested by the author. Ms. Davis's letter expressed concern about over development, the high water table, and floods.
- Mr. Silva explained the requirements of the master plan approval
- Motion to close the public meeting by Ms. Owen, seconded by Mr. Sullivan
- Vote 6-0-0
- Motion for a positive recommendation for master plan approval, by Mr. Nash, seconded by Mr. Sullivan with the nine conditions in the memo from the Town Planner dated November 1, 2017
- There was discussion by the board relating to:
  - Homeowners association filing with the Town and the ongoing enforcement of the homeowners association's requirements
  - That owners of the lot would be responsible for shared systems for undeveloped or unsold lots
  - Community septic system installation timeline and bonding requirements
  - A desire for more information on the septic system to determine if the Master Plan level has value and a request for other examples of the community septic systems under similar conditions in Middletown.
  - Clarification of the maximum number of lots and the ability of plans to be reduced due to the suitability of site for drainage and wastewater treatment. The planning board has the ability to increase or reduce number of lots based on further engineering in Preliminary Plan Stage.
  - Mr. Duhamel clarified that up to 4900 gallons per day would be handled by the septic system with 3-4 bedroom homes.
  - Mr. Duhamel explained the results of the traffic study.
  - Compliance with the Comprehensive plan and the Future Land Use Map in a low density residential development
  - The community septic system's distance from the proposed development
  - Access to public water and public sewer
  - Responsibility for septic system
  - Why a community septic was proposed over individual systems for each household

- Power outage backups for septic
- Sakonnet Greenway Trail access
- Access to the pond via the public road, which does not include any parking on the roadway
- Proposed stonewalls on the property including repairing the stonewalls on Mitchell's Lane with stones from property that will be removed by development
- Mr. Silva offered to engage a traffic expert and present the findings at the appropriate time
- The motion was amended to include a condition to refer the plans to the Town's Consulting Engineer prior to Preliminary Review
- Vote 3-3-0 with Ms. Owen, Ms. Drayton, and Ms. Flynn opposing. Motion failed.

Ms. Owen excused herself from the remainder of the meeting.

Mr. Williams returned to the bench.

**b) Public Hearing** - Request by McDonalds Associates, LLC for waivers from certain design standards of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land, Section 521 for redevelopment of the existing McDonalds restaurant located at 288 East Main Road, further identified as Plat 113 Lot 15A.

- Ms. Lavoie notified the board that due to McDonald's updated proposal, the applicant is now only requesting a waiver for materials per section 521.2.c.1., other waivers are no longer necessary.
- The public meeting was opened
- Mr. Eric Dubrule, engineer for the applicant provided an overview of the proposed changes and showed the board a sample of the siding materials.
- There were questions by the board relating to
  1. Dark Sky compliance
  2. Increasing the landscaping
  3. Maintaining the trees on the property
  4. Roof line consistency with the proposed drawing
- Mr. Adam Gilmet, construction manager for the applicant, provided clarity on the roof line design.
- Motion by Mr. Sullivan, seconded by Mr. Nash to close the public hearing
- Vote 6-0-0
- Motion by Mr. Sullivan, seconded by Ms. Drayton for approval of waivers from certain design standards
- Vote 6-0-0

- c) Request of the Town Council for a recommendation on the petition by John Wynne, Basha Wynne, and the Estate of Betty Foss for the abandonment a portion of Roy Avenue located between 7 and 9 Jean Terrace (Plat 105, lots 327 and 328).
- There was an explanation of process of road abandonment by Mr. Regan and Ms. Lavoie
  - Mr. Joe Pulombo, attorney for Mr. and Ms. Wynne, reviewed the application, which includes approximately 424 feet of Roy Avenue, no utilities in the paper street, and abuts a fully developed lot with no need to connect the streets.
  - There was a question as to why the request is happening now
  - Mr. Wynne explained that he hopes to expand his existing garage to protect from future car break-ins and a desire to take ownership of the property they have been maintaining for years
  - Motion by Mr. Nash, seconded by Mr. Sullivan to forward a positive recommendation to the Town Council
  - Vote 6-0-0
- d) Narragansett Electric Company (aka National Grid), applicant – Request to remove condition #3 from the approval of Development Plan Review granted on October 11, 2017 for proposed site modifications to commercial property located on Turner Rd, identified as Assessor's Plat 118, Lot 27-B.
- There was discussion by the board regarding a desire to ask questions of the applicant
  - Motion by Mr. Sullivan, seconded by Ms. Drayton to continue to the item to the December 13, 2017 planning board due to the applicant's absence
  - Mr. Nash noted that he felt the memo from the Town Planner would allow the board to move forward without the applicant
  - Mr. Sullivan expressed a desire to have questions answered by the applicant
  - Vote 5-1-0 with Mr. Nash voting in opposition

## 6. New Business

- a) **Public Hearing** – Potential revisions to section 703.6 of the Rules and Regulations Regarding the Subdivision and Development of Land regarding subdivision maintenance bonds.
- Motion to open public the hearing by Mr. Sullivan, seconded by Ms. Flynn
  - Vote 6-0-0
  - There was a review of the planning board's consideration of the maintenance bonds
  - Mr. Regan reviewed the drafted language
  - **Mr. Bob Silva** ask for clarification on the language and asked if findings of fact would be necessary.
  - There was discussion that the recommendation must be based on the expertise of the Town Engineer

- There being no additional members of the public wishing to speak, there was a motion to close the public hearing by Mr. Sullivan, seconded by Ms. Flynn
  - Vote 6-0-0
  - Motion to forward a positive recommendation on the revisions to the Town Council by Mr. Sullivan, seconded by Ms. Flynn
  - There was discussion regarding state law allowing for extenuating circumstances to permit the board to extent the time standard.
  - Vote 6-0-0
- b)** Application by David Jordan for Preliminary Plan approval for a proposed 2-lot subdivision of property located at 493 Green End Avenue, further identified as Plat 114, Lot 185.
- Mr. Bob Silva, attorney for the applicant, provided an overview and history of the application including details on the utility and access easement and frontage.
  - Ms. Flynn spoke of adding a road on the west side of the parcel off Aquidneck Ave to access the lots with limited access
  - There was discussion about creating a lot with zero frontage
  - Background on the reasoning for subdividing the property was provided by the applicant's attorney
  - There was discussion regarding subdividing versus asking the zoning board to grant a second principal structure on one lot
  - It was recognized that only Lot 1 has less than the 120 feet of frontage, not both lots as indicated in the staff memo dated November 1, 2017. The application still requires necessary zoning relief.
  - Motion by Mr. Nash, seconded by Mr. Sullivan, for preliminary plan approval subject to the four conditions listed in the staff memo dated November 1, 2017
  - Vote 6-0-0

## **7. Updates**

- a)** Comprehensive Plan Implementation items
- Agricultural overlay district: no updates were provided
  - Mixed-Use Zoning: the draft is being sent to the Town Council
  - Future Land Use Plan & Zoning Map consistency – Potential Comprehensive Plan, Future Land Use Plan amendments: Workshop scheduled for Monday November 13, 2017
  - Marijuana Ordinance: Update provided by Mr. Regan and a description of draft ordinance process
- b)** Update on activities of the Aquidneck Island Planning Commission: no update was provided



- c) Update on BRAC Navy Surplus Land reuse planning process: Mr. Regan mentioned an upcoming conference call and an expectation of closing on the Navy Property within 30 days
- d) Committee reports
  - Mr. Nash provided a Use Table Subcommittee update, mentioning that non-unanimous uses will be held for the full board to consider
  - Ms. Flynn mentioned the conservation commission's review of an upcoming agenda item at the corner of East Main Road and Aquidneck Ave.
  - No update from the Open Space and Fields Committee
  - No update from the Tree Commission
- e) Upcoming meetings:
  - November 13, 2017, 6pm: Planning Board Workshop regarding zoning map and future land use map consistencies.
  - December 13, 2017, 6pm: Regular Planning Board meeting
  - Adding a Planning Board Orientation on the subdivision process at 5pm on December 13, 2017
- f) Mr. Regan mentioned that the Town Council asked for a draft ordinance on Bulk and Gravel processing, details will be forthcoming
- g) Mr. Nash and Ms. Flynn requested that decisions include the records of the votes and names of objectors and votes in favor and the support of the votes also be included

**8. Motion to adjourn by Mr. Sullivan seconded by Mr. Williams**

- a) Vote 6-0-0

*Meeting adjourned at 9:00 pm*

Respectfully submitted:

Rita Lavoie  
Principal Planner