

Town of Middletown

Planning Department



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

PLANNING BOARD MINUTES

January 22, 2018

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

Board members present:

Paul Croce, Chair
Bill Nash
Liz Drayton
Terri Flynn
B.J. Owen
Art Weber

Rita Lavoie, Principal Planner
Peter Regan, Town Solicitor

Member absent:

Jim Williams

Paul Croce called the meeting to order at 4:00pm

1. Consider recommendation to the Town Council regarding proposed Zoning Ordinance amendments related to regulation of gravel processing businesses, and storage and sales of bulk materials.

- Mr. Regan explained the proposed ordinance stems from a request by the Town Council in response to residents' complaints, and addresses 1) Bulk Storage: setbacks, height, screening requirements, dust, and drainage controls and 2) Gravel Processing: wholesale/retail location and noise.
- Mr. Regan encouraged the Planning Board to consider 1) the uses (bulk storage and gravel processing) separately, 2) wholesale and retail operations 3) and what zoning/areas are appropriate for these businesses.
- Mr. Regan stressed current operations are subject to a level of grandfathering, to be determined, and regulations like DEM's for fugitive dust. The value of the proposed ordinance would be for future uses and change or expansion of current uses. Ordinance language should be broadly applicable, not specific to any particular property.
- The Board welcomed comments from the public
- Mr. Howard Hall-90 Morrison Ave, a long time residential abutter to the JAM processing yard, spoke to protecting residential neighborhoods from blowing dust; day long machinery noise; and the unattractive streetscape appearance of bulk storage. Provided photos and video of Middletown gravel processing yards. Noted the pile height and recorded noise. Recommendations: 1) increase screening, as 6' is inadequate 2) improve screening material required 3) increase/assure screening for public right of way 4) use earthen berms and/or acoustical screening 5) delete gravel processing from the manufacturing category. His comments were submitted to Staff for the file.
- Mr. Weber asked if the Zoning Officer had measured the height of the existing piles. Mr. Hall estimated them to be 20-30 feet tall.

- There was further discussion by the board related to:
 - Current setback requirements may not apply specifically to bulk storage
 - Matching the screening and pile heights
 - Noise needs to be better addressed by the existing Noise Ordinance
 - JAM has earthen berms surrounding low lying areas to address noise
- Ms. Valarie Gelb-94 Shore Dr, attends a gym across the street from JAM and spoke of the dust blowing in the windows year round. Recommended a buffer on all sides of the properties, as 6' was not tall enough. Stated the noise is "unbearable."
- Mr. Sean Bouchard spoke on behalf of his client, JAM Materials, noting that JAM has taken steps to reduce noise. He noted: a 20' earthen buffer in front of a 20' bulk storage pile might also be unattractive; grandfathered uses; pile height allowed by zoning and setbacks don't apply to what is existing, thus JAM is currently in compliance with the zoning code, though the proposed ordinance would apply to any expansion.
- Discussion continued by the Board regarding:
 - Greenery as a buffer material to dampen noise and be more attractive
 - Proposed ordinance language to assist future expansion or new operations and be specific to avoid misinterpretation
 - Realizing a 20' buffer in phases may be more reasonable. Screens/buffers may be different according to use (storage vs. processing)
 - If processing uses belong in Manufacturing
 - The proposed 6' screen and 20' buffer requirements are standards of other ordinances; actual dimensions open for Board discussion. A screen can be inside the buffer area. A reference was made to the Jepson Lane substation screen.
 - The importance of maintaining existing businesses' presence and utility
 - Using formulas by type of property, if not too many; a direct relationship between pile height and setback was suggested
 - Containing the noise to the source. Buffering the noise source. The Town has the right to seek injunctive relief to stop patterns of ongoing noise violations
- Mr. Croce offered that bulk storage and gravel processing uses should be excluded in LB or GB districts.
- Mr. Nash supports Special Use Permits to allow the Zoning Board to vet small scale operations that may be appropriate in more areas to encourage creativity/opportunity.
- Further discussion regarded:
 - Incompatibility of approved SUPs abutting residential structures as businesses grow
 - Allowing defined small scale or material type operations (nurseries, mulch) in areas, and exclude larger scale operations in those areas
 - Looking at other Town's requirements
- Mr. Croce asked about incentives for existing large businesses to relocate to more compatible areas.
 - Mr. Reagan stated that would be a Town Council issue and suggested that the Board could look at the uses allowed in Light Industrial (LI) Zone, stating and confirmed by Ms. Lavoie that LI2 may currently be more restrictive than LB or GB zones

- Mr. Croce suggested the Uses Subcommittee look at the LI/LI2 zones
- Existing businesses were identified
- Mr. Weber asked about the establishment of the existing businesses and when the abutting residential communities were built; Mr. Hall reported the JAM operation started 10 years after the residential community was established.
- Mr. Croce noted the Town has definitions of zoning and this ordinance will help achieve the definitions.
- The following points were also made:
 - Consider treating bulk storage and pallet storage differently
 - Check the communities' demographics from which similar ordinances were reviewed
 - Abutting businesses are impacted, not just abutting residents
 - The public health aspect of debris and noise; DEM regulations exist
- Ms. Lavoie provided a summary of changes for the Town Solicitor to look at:
 - Separating gravel processing from bulk storage
 - Addressing the definition of bulk storage to allow for smaller scale operations
 - Buffer setbacks and screening height requirements
 - Excluding new uses from LB and GB districts from gravel processing
 - Alternate ways of storing material (3-sided bays, for example) since existing businesses are located at Middletown's entry ways
- Mr. Regan will prepare a revised draft of the ordinance. Written comments were provided by Planning Board members to the Solicitor's office. Any suggestions by business owners or others should be submitted to the Planning Office or the Solicitor.
- Mr. Hall provided a final comment that residents expected the ordinance to be applicable to existing businesses as the ordinance was presented to the residents by the Town Council as the solution to their complaints.
- Mr. Regan suggested the first step is finishing an ordinance and then decide if the ordinance or existing regulations are applicable to the existing concerns.

Motion to adjourn by Ms. Owen, seconded by Mr. Nash.
Vote 6-0-0

Meeting adjourned at 5:30pm

Respectfully submitted:

Terri Flynn
Planning Board Secretary