



Town of Middletown Planning Department

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

PLANNING BOARD MINUTES May 15, 2018

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

Board members present:

Paul Croce, Chair

Bill Nash, Vice Chair (joined at 4:20pm)

Liz Drayton

B.J. Owen

Art Weber

Jim Williams

Ron Wolanski, Town Planner

Rita Lavoie, Principal Planner

Members absent: Terri Flynn, Secretary

Paul Croce called the meeting to order at 4:00pm (Recording: <https://vimeo.com/270143788>)

[Power Point: <http://planning.middletownri.com/wp-content/uploads/sites/8/2018/05/PP-pres-5-15-18.pdf>
Hard copies available: Town Hall; Planning Dept]

1. **Public Workshop** – Review, discuss and accept public input on review processes related to subdivision, development plan review and zoning applications.

A. Mr. Wolanski:

- I. Planning Board governed by Town's "Rules and Regulations Regarding the Subdivision and Development of Land"
[http://library.amlegal.com/nxt/gateway.dll/Rhode%20Island/middletown_ri/titlexvlandusage/chapter152zoningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:middletown_ri](http://library.amlegal.com/nxt/gateway.dll/Rhode%20Island/middletown_ri/titlexvlandusage/chapter152zoningcode?f=templates$fn=default.htm$3.0$vid=amlegal:middletown_ri)
 - a. Procedures, design requirements - differ from Zoning Ordinance
- II. Power Point/detailed Agenda
 - a. Subdivision Process
 - i. Administrative Subdivision
 1. Town Planner approved
 - Planner can present to Board - Board approval
 2. Checklist requirements
 3. Deadlines: Certify Application Complete, Decision, Land Evidence recording
 - ii. Minor Subdivision (5 or less lots): 2 stages-can be simultaneous when no zoning relief, both Checklist requirements met
 1. Preliminary Plan process/requirements
 - Checklist requirements

- No abutter notification/public hearing, unless road
 - Required: engineered plans, State permits
 - Deadlines: Certify Application Complete (new road-more time), Board decision
- 2. Final Plan process/requirements**
- Checklist requirements
 - State allows Board to delegate approval to Town Planner or TRC
 - Deadlines: Board Decision, Land Evidence recording
- iii. Major Subdivision(6+ lots): pre-application meeting, 3 stages**
- 1. Master Plan process/requirements**
- Conservation Development required
 - Checklist requirements
 - Conceptual
 - no engineered plans, survey, permits
 - info describes how plans created
 - State agency input required
 - Abutters notified, Public Information Meeting
 - Deadlines: Certify Application Complete, Board decision
 - Vested 2 years for next stage; can extend 2 years
- 2. Preliminary Plan process/requirements**
- Checklist requirements
 - TRC Review
 - Required: engineered plans, State permits
 - Abutters notified/Public Hearings
 - Deadlines: Certify Application Complete, Board decision
 - Vested 2 years for next stage; can extend 2 years
- 3. Final Plan process/requirements**
- Shorter process; most done/Preliminary Plan stage
 - Checklist requirements
 - Final engineering plans, confirm any conditions met
 - Solicitor reviewed legal docs (easements, HOA, etc)
 - No public hearings
 - Public improvements-Developer
 - May complete before recording
 - Request bond; allows recording, property sales, later completion
 - Completion-Town Engineer releases, reduces
 - Deadlines: Certify Application Complete, Board decision, Land Evidence recording
- iv. Required findings of fact; Board findings, every application**
- 1.Consistency with Comp Plan
 - 2.Complies with Zoning
 - 3.No negative environmental impacts
 - 4.Will not create unbuildable lots
 - 5.Lots have permanent access to public street

- b. Conservation Subdivision/Development
 - i. Applicability
 - 1. Major subdivisions-all; minor subdivisions-optional
 - 2. Board may consider conventional/1 of 4 findings met
 - 3. Lot count same as conventional plan
 - 4. Smaller lots for zoned area
 - 5. Town/environmental benefits: 45-60% protected open space, less lawn/less chemicals/better water quality
 - ii. Requirements
 - 1. Open space uses specific, restricted
 - 2. Each owner owns/pays taxes on % open space
 - 3. Lot count determination: yield plan or yield formula (yield plan-future elimination possible)
 - 4. Application process by lot count: major, minor subdivision
 - 5. 10-step design process evidence (maps, alternatives)
- c. Development Plan Review (DPR)
 - Decision options: approval, approval w/ conditions, denial
 - Required for:
 - +Multi-family dwellings
 - +Commercial development; triggers: new building or 1,000+SF expansion; new/added parking 5,000+SF
 - +Lesser buildings' modifications (ex. façade)
 - Single family, duplexes exempt
 - i. Process for review of plans requiring zoning relief (SUP, variance)
 - 1. Pre-application meeting
 - 2. Zoning Board application-Official certifies complete
 - TRC: review, notifies abutters
 - Planning Board: referral for DPR recommendation
 - If Waiver request (1 of 5 findings): abutter notification
 - 3. Deadlines-extensions by agreement: Certify Application Complete, TRC/Planning Board recommendations, Zoning Board final decision, Land Evidence recording
 - ii. Process for review of plans not needing zoning relief (use allowed by right)
 - 1. Pre-application meeting
 - 2. Zoning Board application-Official certifies complete
 - 3. TRC: review (notifies abutters)
 - 4. Planning Board review
 - If Waiver request (1 of 5 findings): abutter notification
 - 5. Deadlines-extensions by agreement: Certify Application Complete, TRC recommendation, Planning Board final decision, Land Evidence recording
 - iii. Review of design requirements
 - iv. Required findings of fact
 - Development Impact Review Report
 - Applicant submits
 - Required when DPR required

- Address impacts: traffic/parking, utilities/services, water/sewage, storm water, schools, environmental/ecological, community character, more
- Reviewed throughout process
- Often third-party consultant reviews (applicant pays)

d. Special Use Permit

-Zoning relief: variances, Special Use Permits (SUP)"/"S" in Use Table

i. ZBR review process

1. SUP application to Zoning Official
2. Zoning Board:
 - Schedules Public Hearing
 - Requests Planning Board recommendation
 - Must make 5 findings

ii. Types of SUP applications requiring Planning Board recommendations-Separate sections in Zoning Ordinance

iii. Required findings of fact

1. Planning Board: Comprehensive Plan consistency, not zoning
2. SUP-if findings met, uses allowed by Zoning Ordinance

e. Zoning Variances

i. ZBR review process

1. Variance request to Zoning Official
2. Zoning Board:
 - Schedules Public Hearing
 - Planning Board-no role in variances
 - Must make 4 findings-may grant less than requested

ii. Required findings of fact

1. High bar-prove hardship
2. must grant least relief necessary
3. Use Variance
 - Requesting to do something prohibited
 - must show nothing else can be done on property

B. Public Input

I. Members of the Public

- a. Mr. Donald Chisholm;1367 Wapping Rd
- b. Ms. Theresa Spengler; 1111 Wapping Road
- c. Mr. George Day; 10 Baldwin Rd
- d. Mr. Thomas Silveira; 1195 Wapping Road
- e. Ms. Marilyn Hennessey; 408 Mitchell's Lane
- f. Mr. Bill Welch; Mitchell's Lane; Portsmouth

II. Question/Answer

- a. Plan changes: Master to Preliminary; lots reduced; State permitting impact; Master Plan approval impact?
 - i. Minor shifts in layout, roads, landscaping, items presented but not required at Master Plan
 - ii. Changes made if improves project (Chases Lane)

- iii. Rarely lot count change-unless engineering issue
 - iv. Vaucluse Ave - voluntary lot count reduction
 - v. Permits: RIPDES/RIDEM (subdivisions disturbing 1 acre+), DOT (if state road), CRMC (if within 200' coastal feature)
 - vi. Wetlands migrate; DEM may find wetter than developer found
 - vii. Master Plan approval vests developer's plan; assures developer can forward plan knowing at Preliminary Town will not say, "changed mind, don't like plan"
- b. Conservation Development:**
- i. Policy: Town policy, State allows it
 - ii. Experience: Julia Ct completed; Approved/in-process: Saltwood Farm, Maple Ave, Chases Lane
 - iii. Board regulation interpretation/decisions impact unknown long term: Solicitor should address precedence; Board: working with regulations, holds some policy reservations, planning future regulation discussion workshop
 - iv. Incentives: reduced infrastructure lowers developer costs; town environmental benefits
 - v. Open Space: modified dimensional zoning table; for development homeowners, not general public; Town has chosen not to accept land unavailable to general public; Aquidneck Land Trust granted parcel; maintained by HOA (but areas in right-of-way town's responsibility); septic, tennis courts allowed
 - vi. Lot coverage: allowed higher percentage since smaller lots
 - vii. Subdivisions differ: public water/sewer no comparison to those with wells/septic; no active application discussion this workshop
 - viii. Fit with Town strategic growth plan: Comprehensive Plan and Future Land Use Plan guide zoning ordinances, density; Board interest/consider future changes; amend Comp Plan any time, minimum every 10 years
- c. Waiver vs. Variance?**
- i. Variance from zoning code granted by Zoning Board if variance-specific findings met (ex. lot coverage, height, setbacks)
 - ii. Waiver from regulations granted by Planning Board if waiver-specific findings met (ex. building materials, road width)
 - iii. Variance, SUP zoning reliefs trigger abutter notification
- d. Development Impact Review report**
- i. Tool: Planning Board decision consideration
 - ii. Not weighted like regulation
 - iii. Board may ask identified concerns be addressed
 - iv. Applicant produced; bias concerns balanced: third-party (TRC Dept Heads) review option, public comment (traffic, parking)
- e. Submission, Continuance Deadlines**
- i. Suggested deadlines:
 1. Deadline applicants indicate proceeding or requesting continuance
 2. Deadline for Planning Board submissions
 - Submissions due 1-week prior to Board meeting

3. Unforeseen circumstances cause last minute requested continuances; Denying continuances forces board decisions without applicant being ready
4. Application status available, call Planning Dept before meeting

C. Board Discussion

- I. Surety bond clarifications: recording timeframe; amount determination: applicant's engineer estimates, Town Engineer reviews, Board approves
- II. Always notify abutters of DPR with/without waiver request; schedule Public Hearing allowing abutters to speak (public support voiced); more transparent
 - a. Public hearing unnecessary if development meets all requirements
 - b. Typical requested waivers do trigger abutter notification
- III. Board is sympathetic to abutters' concerns; no Board agenda items starting after 9pm can cause application continuances

D. Members of the public thanked the Board: holding the workshop, requesting development impacts study from Town Council, continuing good Town stewardship

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

Meeting adjourned at approximately 5:40pm

Respectfully submitted: Terri Flynn
Planning Board Secretary