

## **The Middletown Zoning Board of Review November 24, 2009**

**The regular monthly Zoning Board Meeting was held on November 24, 2009 at 7:00 p.m. Present at this meeting Chairman- Tom Silveira, Vice-Chairman- Peter Van Steeden, Secretary- Lucy Levada, Board members- Tom Newman, Steve MacGillvary, Greg Schultz, Frank Flanagan, Michael Potter, Town Solicitor Turner Scott and Building Officer Jack Kane.**

**A motion was made by Peter Van Steeden and second by Tom Newman to re-schedule the December to January 26, 2010 Motion carried 5-0**

**1. Petition of: Edward B & Ruth Corcoran 8 Howland Ave. Middletown, R.I.- (owners) - for a Special Use Permit Under Article 16- to allow an Accessory family dwelling, Said real estate is located at 8 Howland Ave. and further identified as Lot 904 on Tax Assessor's Plat 125.**

**A motion was made by Lucy Levada and second by Peter Van Steeden to grant the petition. Petition Granted 5-0**

**2. Petition of: JPB Realty Inc. -166 Connell Highway- Newport, R.I. (owner) Peter Barry (applicant) by their attorney David P. Martland, Esq.-for a special Use Permit under Article 12 Sections 1211, Tables 12-2&12-3 to allow the replacement of an existing 36 ft high 127sq.ft.pylon sign with a 36 ft. high 121sq.ft pylon sign. Said real estate is located at 250 West Main Rd. and further identified as Lot**

**197 on Tax Assessor's plat 108nw.**

**Chairman -Tom Silveira recues himself on this petition. Vice Chairman- Peter Van Steeden will be acting chair.**

**Mr. Barry was sworn and testified that GM has terminated his franchise due to today's economy and will only be servicing their cars. 3 fascias signs are coming down and will be replaced by new parts & service and used car.**

**A motion was made by Lucy Levada and second by Frank Flanagan to grant the petition.**

**Petition granted 5-0.**

**# Exhibit 1-Picture of new replacement sign. # Exhibit 2- Paul Hogan Real Estate Expert**

**3. Petition of: Bancroft Partners, LLC- 1100 Aquidneck Ave.- Middletown, R.I.- by their Attorney Robert M. Silva Esq. -for a Variance from Sections 603- to re-subdivide Lots 123&127 such that the proposed Lot A will have lot frontage of 13.03 feet were 130 feet is required and proposed Lot B will have side yard setbacks of 7.2 feet where 12.5 feet where 20 feet is required. Said real estate is located at 575Tuckerman Ave. and further identified as Lots 123&127 on Tax Assessor's Plat 122.**

**4. Petition of: Bancroft Partners, LLC-and John Bagwell, Jr.& Emily S. Bagwell- 587 Tuckerman Ave.-Middletown, R.I. (Owners)- Bancroft Partners.LLC.-by their Attorney Robert M. Silva Esq. 1100 Aquidneck**

**Ave.- Middletown, R.I. 603- (Applicant)-for a Variance from Section 603- to re-subdivide Lots 123, 124, 12700 such that a proposed lot (Parcel A) as shown on certain plans as filed herein revised as of 1/22/09 having street frontage of 13.06 feet where 130 ft is required' Said real estate is located at 575 and 587 Tuckerman Ave. and further identified as Lots 123, 124, 12700 on Tax Assessor's Plat 122.**

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**Attorney Robert Silva stated that the John and Emily Bagwell are the applicants on the pending petition before us. Of lot 124 and also this petition was amended recently to add the portion of lot 124 and also the 2 applications of John and Emily Bagwell who are partners of lot 124 which is incorporated in the sub division into lots 123 &12700 and make this # Exhibit J.**

**#Exhibit K is a copy of Mr. George Durjen's written appraisal. Attorney Christopher Behan is representing the objectors Mr. & Mrs. Jermaine on lot 117 and Sandra Lang is objecting to Mr. Durjen's report as being a real estate /appraiser and stated that he is only a real estate expert.**

**Finding of Facts from the objectors exhibit B # 2 had to have changes correcting language and Lots 123 to read Lot 127 and Lot 127 to read 123. Town Solicitor Turner Scott prepared the corrected copies for the board members.**

**Chairman Silveira closed the public hearing.**

**A motion was made by Tom Newman to grant the petition with the condition outlined in building restrictions put in the letter dated July 18,2009, that Attorney Silva had testified are part of the restrictions on the building, should this petition be granted. Second by Lucy Levada.**

**Greg Schultz stated it's unfortunate that this application has taken so long it was somewhat unique however I have reviewed my notes and exhibits that have been submitted and based on the testimony and materials submitted by the applicant. I vote to approve to support the motion.**

**Mr. Chairman, This petition goes back to the years 2004 &2005 when the Zoning and Planning board approved this application of Bancroft Partners petition to renovate and establish a condominium on this property at 575 Tuckerman Ave.,. February 11, 2009 The Planning Board once again review and noted the changes even after the 3 time and still approved this petition. All that they now are asking for is to be allowed to go back to what they had in 2004-2005. With all the testimony that has been given I have to vote to grant the petition. The relief requested is the least relief necessary to Lot 123 satisfies all other dimension requirements of the Zoning Board.**

**Solicitor Scott asked Board member Mr. Flanagan for the record if he is indicating that he is accepting the Finding of Facts of the Objectors. Mr. Flanagan stated Objectors.**

**Mr. Newman voted to support the petition.**

**Chairman Silveira asked Mr. Newman if he is accepting the finding of facts Mr. Newman stated yes.**

**Voting on the amendment first than vote on the motion with the amendment.4 yes**

**Chairman Silveira all in -favor of the amendment -against Frank Flanagan amendment passed 4-1**

**All in favor of the original motion say aye- all against Frank Flanagan aye Petition passed 4-1**

**Meeting adjourned 9:45 p.m.**

**Respectfully Submitted**

**Lucy R. Levada**

**Secretary**