

Minutes Zoning Board of Review

January 25, 2011

The monthly meeting of Middletown Zoning Board of Review was held on January 25, 2011 at 7:00pm. Roll Call: Present at the meeting were Chairman, Tom Silveira , Vice Chairman, Peter Van Steeden, Tom Newman, Stephen MacGillivray (acting secretary), Greg Schultz (1st Alternate Voting), Frank Flanagan, (2nd Alternate), Michael Potter (3rd Alternate) and Secretary Lucy Levada was absent.

The previous month's minutes were unanimously adopted.

Continuances/Withdrawals:

Petition of: 1235 WMR, LLC and Avenir Realty, LLC – PO Box 4559- Middletown, RI (owners)- by their attorney Patrick O’N Hayes, Jr.- 31 America’s Cup Ave.- Newport, RI - for a Special Use Permit from Sections 602 & 1800-1811- to allow a shopping center in a General Business Traffic Sensitive (GBA) zone. Said real estate located at 1235 West Main Rd. and further identified as Lot 87 on Tax Assessor’s Plat 106. Hearing date 2/23/11.

Petition of: Lori A. Stewart – 64 John Kesson Ln.- Middletown, RI (owner)- for a Special Use Permit from Article 16- to allow an accessory family dwelling unit. Said real estate located at 64 John

Kesson Ln. and further identified as Lot 122 on Tax Assessor's Plat 110. Petitioner submitted letter requesting a continuance. New hearing date 2/23/11.

Petition of: Paradise Realty, LLC – 470 Old Baptist Rd.- North Kingstown, RI (owner)- by their attorney Stephen M. Litwin, Esq.- 1 Ship St.- Providence, RI- for a Special Use Permit from Article 11 - to construct a single family dwelling in Zone 1 of the Watershed Protection District . Said real estate located at Bailey Ave. and further identified as Lot 916 on Tax Assessor's Plat 120. Petitioner submitted letter requesting a continuance. New hearing date 2/23/11.

Summary Hearing:

Petition of: Michael and Stephanie Sullivan - 28 River Run Rd.- Middletown, RI (owners)- for a Variance from Sections 603 & 701- to construct a 192 sq. ft. covered front porch with a front yard setback of 37' where 40' is required . Said real estate located at 28 River Run Rd. and further identified as Lot 50 on Tax Assessor's Plat 120. Objector present. Continued to March 22, 2011.

Full Hearings:

Petition of: Creative Properties, Inc. – 796 Aquidneck Ave.- Middletown, RI (owner)- Eva Ruth's Specialty Bakery (applicant)- for a Variance from Sections 1209 to allow a perimeter directional sign to

bear advertising. Said real estate located at 796 Aquidneck Ave. Unit D and further identified as Lot 92A on Tax Assessor's Plat 114. The owners represented themselves and requested that they be allowed to retain the direction sign Peter Van Steeden moves for approval and Tom Newman seconds. After discussion on the record, the board approved 5-0.

Petition of: Robert Barlow – 48 James Francis Terr.- Middletown, RI (owner)- for a Special Use Permit from Article 11- to allow the expansion of the existing single family dwelling located in zone 1 of the watershed protection district. Said real estate located at 48 James Francis Terr. and further identified as Lot 602 on Tax Assessor's Plat 112.

Petition of: Robert Barlow – 48 James Francis Terr.- Middletown, RI (owner)- for a Variance from Sections 603 & 701- to construct a 6' x 34' covered front porch with a front yard setback of 26' where 40' is required and construct a 32' x 34' two story garage addition with a front yard setback of 26.2' where 40' is required. Said real estate located at 48 James Francis Terr. and further identified as Lot 602 on Tax Assessor's Plat 112.

The two petitions are read and taken up together. The owner has appeared before the Conservation Commission and has been granted approval. Peter Newman moves for approval and Greg Schultz

seconds with respect to the Variance. After discussion on the record, the petition is granted 5-0.

Tom Newman moves for approval and Peter Van Steeden seconds with respect to the Special Use Permit. After discussion on the record, the petition is granted 5-0.

Petition of: Karen Dannin Stoller Trust – 39C Stratford Ln.- Boyton Beach, FL (owner)- Hamish Gunn & Susan Mitchell- 6 Guerney Ct- Newport, RI (applicants)- by their attorney Christopher J. Behan, Esq.- for a Variance from Section 602- to convert an existing accounting office to general merchandise retailing activities. Said real estate located at 163 Aquidneck Ave. and further identified as Lots 14 & 15 on Tax Assessor's Plat 115SE.

Attorney Christopher Behan represents the equitable owners who have signed a purchase and sale contingent upon the granting of the Use Variance. Exhibit 1 is a site map. Exhibit 2 is an artist rendering of the building as improved. Exhibit 3 is Paul Hogan's Curriculum Vitae. Expert Paul Hogan testifies that the building is functionally obsolescent as an office building and cannot serve residential uses. Stephen MacGillivray moves for approval of the petition and Peter Van Steeden seconds. After discussion on the record and a finding that the petition meets all requirements for the granting of a use variance, the petition is granted 5-0.

Petition of: Peter Gallipeau - P. O. Box 4286 - Middletown, RI (owner)

- for a Special Use Permit from Article 11 and Section 1103 - to allow the construction of a single family dwelling on proposed subdivision lot #9 located in Zone 1 of the Watershed Protection District. Said real estate located at Bailey Avenue, Sachuest Drive, and Cross Country Lane and further identified as Lot 4 on Tax Assessor's Plat 126.

Petition of: Peter Gallipeau - P. O. Box 4286 - Middletown, RI (owner) - for a Special Use Permit from Article 11 and Section 1103 - to allow the construction of a single family dwelling on proposed subdivision lot #10 located in Zone 1 of the Watershed Protection District. Said real estate located at Bailey Avenue, Sachuest Drive, and Cross Country Lane and further identified as Lot 4 on Tax Assessor's Plat 126.

Petition of: Peter Gallipeau- PO Box 4286- Middletown, RI (owner)-for a Special Use Permit under Article 11 Section 1103 – to allow the construction of a single family dwelling on proposed subdivision lot 2 in Zone 1 of the Watershed Protection District. Said real estate located at Bailey Ave., Sachuest Dr. & Cross Country Ln. and further identified as Lot 4 on Tax Assessor’s Plat 126.

These three petitions are taken up together. Greg Schultz recuses and Frank Flanigan becomes a voting member for purposes of these petitions. Attorney David Martland represents the petitioner and attorney Vernon Gorton enters his appearance on behalf of a group of

objectors. Exhibit 1 is the January 22, 2009 letter from the Planning Board. Exhibit 2 is May 18, 2010 Notice of the Planning Board. Exhibit 3 is an August 18, 2010 Notice of the Planning Board. Exhibit 4 is a November 15, 2010 Notice of the Planning Board. Exhibit 5 is a Conservation Commission Letter. Exhibit 6 is a Conservation Commission letter dated August 12, 2010. Exhibit 7 is a Conservation Commission letter dated December 3, 2010. Exhibit 8 is a notice from the Department of Environmental Management. Exhibit 9 is the Curriculum Vitae of Geralyn Small. Geralyn Small testifies.

The case is continued to February 23, 2011.

The meeting was adjourned at 10:10pm