

## **Zoning Board Minutes for**

**March 22, 2016**

**Administrative: Roll Call / Adoption of Minutes February 23, 2016**

### **Continuances/Withdrawals:**

**Petition of: Cumberland Farms, Inc. & VSH Realty Inc. & John J. Moitoza Revocable Trust (owners) First Hartford Realty Corporation (applicant)- by their attorney Robert M Silva, Esq.- for a Variance from Sections 603, 701 & Article 13- to allow the expansion and renovation of the existing convenience store and gasoline dispensing facility with a south side yard setback of 4.9' where 20' is required; a front yard setback of 8.3' where 10' is required; a rear yard setback of 25.8' where 50' is required; 8 parking spaces where 14 parking spaces are required, and from the landscaping requirements set forth in the Middletown Planning Board's Rules and Regulations regarding the Subdivision and Development of Land, pursuant to plans filed herewith and prepared by Vanasse, Hangen, Brustlin, Inc. Said real estate located at 94 and 106 Aquidneck Ave and further identified as Lot 132, 133 & 134 on Tax Assessor's Plat 115SE.**

**Continued to 5/24/2016 awaiting advisory opinion**

**Petition of: Cumberland Farms, Inc. & VSH Realty Inc. & John J. Moitoza Revocable Trust (owners) First Hartford Realty Corporation (applicant)- by their attorney Robert M Silva, Esq.- for a Special Use**

**Permit from Sections 602 and Article 11- to allow the expansion and renovation of the existing convenience store and gasoline dispensing facility as presently located in a Traffic Sensitive Limited Business Zone (LBA) and in Zone 1 of the Watershed Protection District (WPD). Said real estate located at 94 and 106 Aquidneck Ave and further identified as Lot 132, 133 & 134 on Tax Assessor's Plat 115SE.  
Continued to 5/24/2016 awaiting advisory opinion**

**Petition of: Windmill Partners LLC (owner) for a Special Use Permit from Section 1103- to allow the construction of a 1780 square foot one story office/business building to be located in Zone 1 Watershed Protection District. Said real estate located at 132 East Main Rd and further identified as Lot 200 on Tax Assessor's Plat 107SE.  
Continued to 4/27/2016 awaiting advisory opinion**

**Petition of: Prescott Point Investors, LLC (owner)- by their attorney Jeremiah C. Lynch III- for a Special Use Permit from Section 602 & Article 15 - to construct a 20 unit multifamily condominium project with a 2,500 sq. ft. clubhouse, and a residential care/assisted living facility (48 rooms) on premises. Said real estate located at West Main Rd and further identified as Lot 7 on Tax Assessor's Plat 104.  
Continued to 5/24/2016 awaiting advisory opinion**

**Petition of: Konstantios & Eleni Moisades (owners)- by their attorney Robert M. Silva, Esq.- for a Variance from Sections 603, 1301(B)(D) and (G) and 1304 to 1307- to permit the construction of mixed**

**residential and commercial use structure containing 4 residential, two bedroom units and a retail area of 2,960 sq. ft. with less than the required off-street parking spaces, side yard, rear yard and front yard setbacks, landscaping buffers and loading areas. Said real estate located at 74 Aquidneck Avenue & 62 Wave Avenue and further identified as Lots 2A, 2 & 3 on Tax Assessor's Plat 116NW.**

**Continued to 4/27/2016 awaiting advisory opinion**

**Petition of: Konstantios & Eleni Moisades (owners)- by their attorney Robert M. Silva, Esq.- for a Special Use Permit from Sections 602, 1100 & 1108- to permit the construction of mixed residential and commercial use structure located in Watershed Protection Area (Zone1) pursuant to plans files herewith. Said real estate located at 74 Aquidneck Avenue & 62 Wave Avenue and further identified as Lots 2A, 2 & 3 on Tax Assessor's Plat 116NW.**

**Continued to 4/27/2016 awaiting advisory opinion**

**Petition of: Old Farm, LLC- 736 East Main Road - Middletown, RI (owner)- by their attorney Michael A. Kelly- 128 Dorrance Street- Providence, RI Ste. 300 - for Special Use Permits from Sections 602, 605 & 1800 et seq – to allow a shopping center, with building footprints exceeding 35,000 square feet in the GB Zone. The development will consist of approximately 471,000 square feet of space located in 5 buildings with 3 of the buildings exceeding the 35,000 square foot threshold. Said real estate located at West Main Rd. and further identified as Lot 55 on Tax Assessor's Plat 106.**

**Continued to 6/28/2016 at the request of the applicant**

**Petition of: Marc Fanticola (Jiffy Lube) applicant Notarriani Realty Inc. (owner) for a Special Use Permit from Section 602- to modify the existing Special Use Permit to include the following services and repairs: signature service oil change, air conditioning, air filtration, battery maintenance and replacement, brakes, cooling system, drivetrain, engine, fuel system cleaning, tires, transmissions, windshield and suspension. Said real estate located at 717 West Main Rd and further identified as Lot 121 on Tax Assessor's Plat 107NE.**

**Continued to 4/27/2016 defective notice petition to be re-advertised**

**Petition of: Daniel D Donovan, III (owner) by his attorney Christopher J Behan- for a Variance from Sections 603 & 720- to allow for the subdivision of existing Lot 111 Plat 114 in to two lots each with less than the required minimum width/frontage. Said real estate located at 608 Aquidneck Ave and further identified as Lot 111 on Tax Assessor's Plat 114.**

**Continued to 4/27/2016 awaiting advisory opinion**

**Petition of: Daniel D. Donovan, III (owner) by his attorney Christopher J. Behan- for a Special Use Permit from Sections 1106 & 902- to allow for the construction of a single family residence on a portion of lot 111 on plat 114 which is located in a Watershed Protection District due to the presence of stissing soil. Said real estate located at 608 Aquidneck Ave and further identified as Lot 111 on Tax Assessor's**

**Plat 114.**

**Continued to 4/27/2016 awaiting advisory opinion**

**Full Hearings:**

**Petition of: Wayne Theriault (owner) for a Special Use Permit from Section 602- to allow the existing patio consisting of a 14'-10" X 10'-8" area with a pergola roof to be enclosed creating a greenhouse room. Said real estate located at 249 Tuckerman Ave, Unit 6 and further identified as Lot 1906 on Tax Assessor's Plat 116SE. Testimony from Len Panaggio in opposition to the petition to allow further expansion of the non conforming use. Testimony in opposition from Gaetano Cantone owner of 2 units in AV Condominium stated that the space was common area and that the applicant had no right to occupy for his own use.**

**Exhibits from petitioners attorney in support of the petition finding that the space was limited common and allowed by RI State Condo law.**

**Motion Jim Miller 2nd Olin Gambrell**

**Granted 5-0 with condition that the space remain as an accessory use not habitable space**

**Petition of: Kathleen Kosinski (owner) for a Special Use Permit from Section 803A- to allow interior expansion of a legal non-conforming two family dwelling. Said real estate located at 414 Mitchell's Ln and further identified as Lot 15A & 17 on Tax Assessor's Plat 123.**

**Michael Kosinski owners son testified that the space was unfinished adjacent to the existing 2nd floor apartment no additional dwelling units were being created. Presented photos of existing conditions as an exhibit.**

**Motion Olin Gambrell 2nd Jim Miller**

**Granted 5-0**

**Petition of: Frank Fechner (owner) for a Variance from Section 603, 701 & 803G- to construct a 780 sq. ft. deck with a right side yard setback of 3' where 20' is required. Said real estate located at 576 Tuckerman Ave and further identified as Lot 117A on Tax Assessor's Plat 122.**

**Frank Fechner (owner) Dan Kopsack (contractor/applicant) testified that the deck was designed to meet the needs of the owner and that there was no reasonable alternative. They offered to add an additional row of vegetation as a buffer.**

**Tim Jermaine abutter against too close to his property and noise from, deck would have a negative impact on his property.**

**Motion Olin Gambrell 2nd Jim Miller Chris Sousa Jim Miller voted to deny.**

**Denied 3-2**

**Petition of: Seaview Inn, LLC (owners) - by their attorney David P. Martland, Esq.- for a Special Use Permit from Sections 602, 725 & 1106- to allow the installation of a ground-mounted solar photovoltaic facility in Zone 1 of the Watershed Protection District. Said real estate**

located at 240 Aquidneck Ave, John Clarke Rd & Valley Rd and further identified as Lots 54 on Tax Assessor's Plat 115.

Continued to 4/27/2016 at the request of the applicant

Petition of: Chaves Realty, Co (owner) East Island Reserve LLC (applicant) by their attorney Jeremiah C Lynch, III- for a Variance from Sections 602 & 903- to seek a use variance to convert the current dwelling into an innkeeper's residence and construct a pool and fitness center to service the adjacent hotel on Plat 118, Lot 20. Said real estate located at 969 East Main Rd and further identified as Lot 21 on Tax Assessor's Plat 118. Jeremiah Lynch presented testimony from Chris Bicho that the property would be merged by use to provide for innkeeper and amenities for the adjacent motel project and that upgraded landscaping would be provided. A report and testimony from Nate Godfried of Newport Appraisal in support of the request. No objectors.

Motion Jim Miller 2nd Olin Gambrell

Granted 5-0