

Middletown Zoning Board of Review Minutes for April 27, 2016

Administrative:

Minutes: John Peixinho moves to approve the minutes from the March meeting and Chris Sousa seconds. The minutes are approved by a vote of 5-0.

Roll Call: Chairman Tom Silveira; Vice Chair Jim Miller (absent), Secretary Stephen MacGillivray, Olin Gambrell; Chris Sousa; Henry Pine (First Alternate); John Peixinho (Second Alternate), Eric Kirton (Third Alternate)

Continuances/Withdrawals:

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. This matter is still before Technical Review Committee and Planning Board and, accordingly, the petitioner requested a continuance until the next scheduled meeting. The matter is continued to May 24, 2016 meeting.

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. This matter remains before the Planning Board and, accordingly, the petitioner requested a continuance until May 24, 2016. The matter is continued to the May 24, 2016 meeting.

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. This matter remains before the Planning Board and, accordingly, the petitioner requested a continuance until May 24, 2016. The matter is continued to the May 24, 2016 meeting.

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. The Building Official reported that there was a letter in the file requesting a continuance until May 24, 2016. The matter is continued until that date.

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. The Building Official reported that there was a letter in the file requesting a continuance until May 24, 2016. The matter is continued until that date.

Petition of: Philip Altman (owner) for a Variance from Sections 603, 701 & 803G- to allow the construction of a 10'x27' three story addition at the rear a 3rd floor over the existing building footprint and a front entry terrace with a left side setback of 1.2'a right side setback of 10.2' where 15' is required a front yard setback of 19' where 25' is required resulting in lot coverage of 29% where 25% is allowed. Also relocate the existing garage 15' in an easterly direction maintaining the existing side yard setback of 1.5' where 15' is required. Said real estate located at 108 Tuckerman Ave and further identified as Lot 140 on Tax Assessor's Plat 116NE. The Building Official reports that there

has been a request from one of the abutters who is out of state to continue the matter and the parties have agreed to May 24, 2016. The matter is continued to May 24, 2016.

Petition of: William & Elizabeth Gill & David Lawrence (owners) by their attorney Jeremiah C Lynch, III- for a Variance from Sections 2201(a) 2204(e) & 1208(a) to allow the construction of a 37 unit Senior Independent Living Facility without the inclusion of the required social or recreational facilities and having 30' of frontage on a public road where 50' is required. Also to allow the placement of an off premise sign. Said real estate located at 1 Thelma Lane and further identified as Lots 14, 23 & 23B on Tax Assessor's Plat 111. This matter must be referred to the Planning Board. Stephen MacGillivray moves to refer it and Olin Gambrell seconds. The motion is approved by a vote of 5-0 and the matter is referred to the Planning board and the hearing before this Board is continued to May 24, 2016.

Petition of: William & Elizabeth Gill & David Lawrence (owners) by their attorney Jeremiah C Lynch, III- for a Special Use Permit from Sections 1106 & 2202 - to allow the construction of a 37 unit Senior Independent Living Facility in zone 1 of the Water Shed Protection District. Said real estate located. This matter must be referred to the Planning Board. Stephen MacGillivray moves to refer it and Olin Gambrell seconds. The motion is approved by a vote of 5-0 and the matter is referred to the Planning Board and the hearing before this

Board is continued to May 24, 2016.

Petition of: Marc Fanticola (Jiffy Lube) applicant Notarianni 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 21 on Tax Assessor's Plat 107NE. Petitioner asks that the matter be withdrawn without prejudice to his refiling. Stephen MacGillivray moves for the petition to be withdrawn without prejudice and Olin Gambrell seconds. The motion is approved by a vote of 5-0.

Summary Cases:

Petition of: Frank Fechner (owner) for a Variance from Sections 603, 701 & 803G- to construct a 780 sq. ft. deck with a side yard setback of 12' where 20' is required. Said real estate located at 576 Tuckerman Ave and further identified as Lot 117A on Tax Assessor's Plat 122. Because the petitioner has come before the board with respect to this property recently, the board must determine whether the matter is substantially different such that it can go forward. Stephen MacGillivray moves that the petition go forward based on a finding that it is substantially different than the previous petition and Chris

Sousa seconds. The motion carries by a vote of 5-0. After solicitation of comments from the attendees, Olin Gambrell moves to approve the petition and Stephen MacGillivray seconds. The petition is approved by a vote of 5-0.

Petition of: Daniel & Jennifer Gibbs (owners) for a Variance from Sections 603, 701 & 803G - to construct a 28' X 28' two story addition with a front yard setback of 22.9' where 40' is required. Said real estate located at 95 Morrison Ave and further identified as Lot 203 on Tax Assessor's Plat 114. Olin Gambrell moves to grant the petition and Chris Sousa seconds. The petition is approved by a vote of 5-0.

Full Hearings:

Petition of: William S. & Jane A. Kelly (owners) for a Variance from Section 603 & 701- to allow the construction of a 12' x 12' addition to the existing accessory structure maintaining the existing rear yard setback of 5' where 15' is required and the existing right side yard setback of 6' where 30' is required and a left side yard setback of 20' where 30' is required. Said real estate located at 46 Berkeley Court and further identified as Lot 16 on Tax Assessor's Plat 120. William Kelly presents his case. After hearing, Stephen MacGilivray moves to approve the petition and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

Petition of: Beverly A. Lewis (owner) for a Variance from Section

705(F)(1)- to install a wooden stockade fence along the easterly boundary line with a height of 8' where 6' is allowed. Said real estate located at 45 Beachview Terrace and further identified as Lot 23 on Tax Assessor's Plat 121SW. Beverly Lewis presents her case that she needs greater screening from her neighbor than the 6' fence will allow. One of her neighbors testifies in support. Chris Sousa moves to approve the petition and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

Petition of: John A. Caetano, Henrique Caetano & Constance Caetano (owners) by their attorney Michael Miller- for a Variance from Sections 603, 701 & 803G- to allow the re-subdivision of lots 98, 99 & 100 to terminate lot 100 and allocate the square footage to lots 98 and 99, resulting in the existing structure on parcel "B" having a left side yard setback of 12.7' where 20' is required and both parcels with less than the required frontage. Said real estate located at 14-22 Forest Ave and further identified as Lots 98, 99 & 100 on Tax Assessor's Plat 106. Attorney Turner Scott presents the case representing the applicant. Mr. Turner indicated that because they are reducing the number of lots, the Town Planner will approve it as an administrative subdivision. Stephen MacGillivray moves for approval of the petition and Chis Sousa seconds. The petition is granted by a vote of 5-0.

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. David Martland presents the case on behalf of the applicant. Scott Milnes, of Econox Group testifies as to the size of the panels. Stephen MacGillivray moves to continue the meeting for one month to give the board members time to view the site individually and for the applicant to provide representations regarding how the installation will appear from several locations. Olin Gambrell seconds. After discussion, the motion and granted by a vote of 5-0 and the matter is continued to the May 24, 2016 meeting.

Petition of: Newport Beach House Real Estate, LLC (owner) by their attorney Brian G. Bardorf- for a Special Use Permit from Sections 602 & 902- to allow a modification to the previously granted special use permit for the expansion of the restaurant to include the service of alcoholic beverages and food in conjunction with ceremonies and events on the portion of its beach property. Said real estate located at 53-55 Purgatory Rd and further identified as Lot 51 on Tax Assessor's Plat 116NW. Brian Bardorf presents the case representing the applicants. This is a modification of 1998 decision granting a Special Use Permit in order to allow the service of alcohol on the beach. He submits a number of exhibits. Belinda M. Kracunas, the president and managing partner of Longwood, testifies regarding the standards to be met and the type of operations. Given the speculative nature of the testimony and questions from the board, Mr.

Bardorf offers that the modification to the Special Use Permit be limited in time to a year. At that point, the petitioner and the town will have additional information regarding the intensity of the proposed expansion of the use. Stephen MacGillivray moves that the request for a modification to the Special Use Permit be granted for a term of one year at which point it will expire and the petitioner will need to reapply for the modification of the Special Use Permit. Olin Gambrell seconds the motion and it is approved by a vote of 5-0.

Petition of: Gregory & Stacie Hall (owners) c/o their attorney Elizabeth M. Noonan, Esq. for a Variance from Sections 603, 701 & 803G- to construct a wraparound covered porch addition with a front yard setback of 10'-7" where 40' is required and a left side yard setback of 21' where 30' is required. Said real estate located at 85 Third Beach Rd and further identified as Lot 5 on Tax Assessor's Plat 125. OG to provide minutes. John Peixinho moves for approval of the Variance and Chris Sousa seconds. The petition is granted by a vote of 5-0

Petition of: Gregory & Stacie Hall (owners) c/o their attorney Elizabeth M. Noonan, Esq. for a Special Use Permit from Section 803 (A)- to continue use of property as threes dwelling units but reconfigure use to a single family dwelling in existing main house, a dwelling in existing garage/barn and a dwelling unit in existing cottage. Said real estate located at 85 Third Beach Rd and further identified as Lot 5 on Tax Assessor's Plat 125. John Peixinho moves for approval of the Special Use Permit and Chris Sousa seconds. The petition is granted by a vote of 5-0

Petition of: Austin N. & Sarah P. Lema (owners) for a Variance from Sections 603, 701 & 803G- to construct an 8'x28' covered front porch and entry foyer with a left side yard setback of 24.8' where 30' is required, construct a 324sq. ft. rear deck with a left side yard setback of 28.4' and a right side yard setback of 26.3' where 30' is required and increase height of the second floor by 3.5' maintaining the existing setbacks. Said real estate located at 1270 Wapping Rd and further identified as Lot 2 on Tax Assessor's Plat 129. Austin Lema presents his case. After hearing, Stephen MacGillivray moves for approval and Chris Sousa seconds. The petition is approved by a vote of 5-0.

Petition of: Thomas O'Connor Jr. (owner) for a Special Use Permit from Sections 1212(D)(1)(A) & 1212 (E) (3)- to allow a 24 sq. ft. freestanding post sign where 6 sq. ft. is allowed and a 0' front yard setback where 5' is required. Said real estate located at 303 Mitchell's Lane and further identified as Lot 6 on Tax Assessor's Plat 123. Thomas O'Connor presents his case. Continued to May 24, 2016. Various objectors supply their comments regarding the inappropriate size of the proposed sign.

The meeting is adjourned 10:35 PM