

Middletown Zoning Board Minutes

June 28, 2016

Administrative: Roll Call: Chairman Tom Silveira, Vice Chair Jim Miller, Secretary Stephen MacGillivray (Absent), Olin Gambrell, Chris Sousa (acting Secretary), H. Pine, John Peixinho (acting First Alternate), Eric Kirton (acting Second Alternate)

Adoption of Minutes: The Minutes of May 24th, 2016 meeting were reviewed and Olin Gambrell moved for their acceptance and Jim Miller seconded. The minutes were approved by a vote of 5-0.

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 July 26, 2016 awaiting DPR

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 July 26, 2016 awaiting DPR

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 October 25, 2016 at the request of the applicant

Petition of: Leicester Associates, LLC (owner)- by his attorney David P. Martland Esq.- for a Special Use Permit from Section 602- to operate a Self-Storage Facility at the existing structure located on the property. Said real estate located at 875 Aquidneck Ave and further identified as Lot 657 on Tax Assessor's Plat 114.

Continued to July 26th, 2016 at the request of the applicant

Petition of: Michael Sturgess (owner)- by his attorney David P. Martland Esq.- for a Variance from Sections 603&701- to allow the construction of a 676 square foot addition with a right side yard setback of 4' where 20' is required. Allow the conversion of the single family to a two family dwelling with 85.93' of frontage where 120' is required. Said real estate located at 5 Chestnut Hill Rd and further identified as Lot 76 on Tax Assessor's Plat 107SE.

Continued to July 26th, 2016 at the request of the applicant

Petition of: Michael Sturgess (owner)- by his attorney David P. Martland Esq.- for a Special Use Permit from Section 602- to allow a two family dwelling. Said real estate located at 5 Chestnut Hill Rd and further identified as Lot 76 on Tax Assessor's Plat 107SE.

Continued to July 26th, 2016 at the request of the applicant

Referrals:

Petition of: The Narragansett Electric Company d/b/a National Grid (owner) by their attorney Peter V. Lacouture, Robinson+Cole 1 Financial Plaza Ste. 1430 Providence, RI. - for a Variance from

Sections 603, 701, 705(F)1 & 705(G) to allow the construction of an Electric Power Sub-Station and High Voltage Electric Transmission Line Towers with sub-station and transmission line structures that exceed the 35' height restriction. Also to allow fencing and walls that exceed the maximum 6' height allowance and to allow barbed wire fencing in a residential zone. Said real estate located at Jepson Lane and further identified as Lots 49, 52, & 53 on Tax Assessor's Plat 111. Referred to the Planning Board for DPR continued to July 26, 2016

Petition of: The Narragansett Electric Company d/b/a National Grid (owner) by their attorney Peter V. Lacouture, Robinson+Cole 1 Financial Plaza Ste. 1430 Providence, RI. - for a Special Use Permit from Sections 602 to allow the construction of an Electric Power Sub-Station and High Voltage Electric Transmission Line Towers. Said real estate located at Jepson Lane and further identified as Lots 49, 52, & 53 on Tax Assessor's Plat 111.

Referred to the Planning Board for DPR continued to July 26, 2016

Full Hearings:

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.

Mrs Altman (Petitioner) and Architect Paul Burke present their case. Board members agree that although Tuckerman neighborhood is expanding with many large homes, the relief is reasonable. No neighbors speak for or against the petition. Jim Miller moves for approval and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

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.

Christopher J. Behan represents the petitioner. Daniel Donovan testifies that he will he would like to subdivide and build his retirement home. The lot is unique and oversized at 1.54 acres in an R20 but lacks frontage. Donovan agrees that the driveway will be shared and an easement will be put in place. Additionally 20 feet of frontage will be provided for the rear lot. No neighbors speak for or against the petition. Jim Miller moves for approval and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

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. No neighbors speak for or against the petition. Tom Silveira agrees the relief is reasonable. Jim Miller moves for approval and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

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. Attorney Martland represents the petitioner. The one story office building is permitted by right on the lot but is located in a Zone 1 of a Watershed Protection district. Martland calls 5 experts to testify: Molly Titus (DiPrete Engineering), Jeffry D'Arrigo (Sage Environmental), Rod Topolewski (Architect), Paul Bannon (traffic expert), Nate Godfrey (real estate expert). Seven exhibits are taken into the record respectively including: Planning Board Recommendation, DPR recommendation, Conservation Commission Case 2015-04, RI DEM

permit, bond requirement letter, Traffic Safety Assessment, and Newport Appraisal Group consult package. Mr. and Mrs. Mike Flynn voice concerns about water quality. Olin Gambrell moves for approval and Tom Silveira seconds. The petition is approved by a vote of 5-0.

Petition of: Ken Alves (owner) for a Special Use Permit from Section 602- to allow a modification to the previously granted special use permit to allow overnight boarding not to be exceed 20 dogs. Said real estate located at 741 West Main Rd and further identified as Lot 452 on Tax Assessor's Plat 107NE. Maura Chrupcala, owner presents her case to allow overnight boarding not to exceed 20 dogs. She has received no complaints in the past, and no neighbors are present to speak for or against the application. Jim Miller moves for approval and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

Petition of: Michael Palm (owner) for a Variance from Sections 603, 701, 703B & 803G- to demolish existing shed and construct a 12' X 20' detached garage with a rear yard setback of 1' where 10' is required, a right side yard setback of 0.5' where 15' is required and located 1' from principal structure where 10' is required. Said real estate located at 19 Loring St and further identified as Lot 50 on Tax Assessor's Plat 121 NW. Michael Palm (owner) presents his case to demolish an existing shed and replace with a 12'X20 detached garage. He testifies that he needs the garage for storage as his house is undersized to

store all of his belongings. There are no neighbors to speak for or against the application. Jim Miller moves to approve the application Olin Gambrell seconds. The petitions is approved by a vote of 5-0.

Petition of: Aadvark Properties LLC (owner)- for a Special Use Permit from Section 1212(B)(2) to allow a second building mounted sign where one building mounted sign is allowed. Said real estate located at 124 Aquidneck Ave and further identified as Lot 137 on Tax Assessor's Plat 115SE. Aadvark Properties owner presents his case.

No neighbors speak for or against the petition. Chairman Silveira comments that the request for the 2nd sign is reasonable given the location of the business. Jim Miller moves for approval and Chris Sousa seconds. The petitions is approved by a vote of 5-0.

Petition of: Ann P Sheeley (owner)- for a Variance from Sections 603, 701, 803G to allow the construction of a 10' X 12' deck on #22 with a right side yard setback of 15.13' where 20' is required. Said real estate located at 20-22 Sherman Lane and further identified as Lot 26A on Tax Assessor's Plat 107SW. Attorney Christopher Behan represents the petitioner. Behan explains that the decks will be replacing two larger cement patios that were removed because of drainage issues. He also adds that the lot is oversized at 23,920 square feet in an R10. No neighbors speak for or against the petition. Jim Miller moves for approval and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

Petition of: Ann P Sheeley (owner)- for a Special Use Permit from Section 602 to allow the construction of (2) 10' X 12' decks on the existing 2 family dwelling. Said real estate located at 20-22 Sherman Lane and further identified as Lot 26A on Tax Assessor's Plat 107SW. Jim Miller moves for approval and Olin Gambrell seconds. The petition is approved by a vote of 5-0.

Your petitioner, Konstantios & Eleni Moisiades by and through their attorney, hereby move this honorable Zoning Board of Review to reconsider its vote to deny the above referenced petition for variance and to re-open the public hearing to take additional testimony that is relevant and pertinent to the application. Olin Gambrell makes a motion to the board to reconsider its vote to deny Petition of: Konstantios & Eleni Moisesades and a separate motion to re-open the public hearing. Chris Sousa 2nd's both requests approved by a vote of 5-0

Petition of: Konstantios & Eleni Moisesades (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.

Attorney Martland represents the petitioner. Martland explains that in addition to the special use permit and all of the Watershed requirements and oversight by the planning board and DEM the applicant is seeking two variances: Variance 1 (lack of a loading area), and Variance 2 (a setback variance for one of the required parking spaces). Martland calls 3 expert witnesses to testify: Spencer McComb (architect), Paul Bannon (traffic expert), Nate Godfrey (real estate expert). Two exhibits are taken into the record respectively including: A traffic assessment presented by Paul Bannon, and a Real Estate consulting report prepared by Nate Godfrey. Focus of expert testimony pertained mainly to data supporting no excessive increase in traffic in the area, no negative impact of real estate values in the area, and the proper channeling of storm water. Neighbors Mr. and Mrs. Mike Flynn and Olga Trasser voice concerns about clean water, view blocking, and neighborhood overcrowding. Olin Gambrell moves for approval of the variances and Chris Sousa seconds. Olin Gambrell moves for the approval of the Special Use Permit and Eric Kirton seconds. The petitions is approved by a vote of 5-0.

(John Peixinho and Jim Miller recused.