

Town of Middletown

Zoning Board of Review

Minutes

June 27, 2017

Administrative:

Roll Call: Chairman Tom Silveira (absent), Vice Chair Jim Miller (present), Secretary Stephen MacGillivray, (present), Olin Gambrell (present), Chris Sousa (present), Thomas Heaney (present), Eric Kirton, alternate (present), Henry Pine 2nd alternate (present), and Mark Nuytkens 3rd alternate (present).

Election of Officers: The 5 voting members of the board approve all new officers by a 5-0 vote including Chairman Jim Miller, Vice Chairman Stephen MacGillivray, Secretary Chris Sousa.

Adoption of Minutes April 25, 2017, May 11, 2017 & May 23, 2017.

The board adopts the minutes 5-0

Continuances/Withdrawals:

Petition of: Gary Lavidas (owner) by his attorney Jeremiah C Lynch, III- for a Variance from Section 603- to subdivide Lot 6 and create a conforming undeveloped lot (Lot B) and a non-conforming lot (Lot A), which has 9,396 sq. ft. of land, 10,000 sq. ft. required with lot

coverage of 28% where 25% allowed. Said real estate located at 107 Briarwood Ave and further identified as Lot 6 on Tax Assessor's Plat 116NE. Continued July 25th

Petition of: Elizabeth Harvey (owner) - for a Special Use Permit from section 602- to allow the construction of a two car attached garage in Zone 1 of the Watershed Protection District. Said real estate located at 194 Third Beach Rd and further identified as Lot 126 on Tax Assessor's Plat 125. Continued July 25th

Petition of: Elizabeth Harvey (owner)- for a Variance from sections 603, 701 & 803G- to allow the addition of an 18' X 24' one story attached two car garage with a left side yard setback of 7.5' where 30' is required. Said real estate located at 194 Third Beach Rd and further identified as Lot 126 on Tax Assessor's Plat 125. Continued July 25th

Summary Cases:

Full Hearings:

Petition of: Michael & Heidi Taylor (owners) - for a Variance from sections 603, 701 & 803G- to construct a 242 sq. ft. addition to existing garage with a left side yard setback of 13' where 20' is required and a rear yard setback of 37.6' where 50' is required. Said real estate located at 10 Smithfield Dr. and further identified as Lot 122 on Tax Assessor's Plat 108. Owner Michael Taylor presents his case. Testimony supports that petition satisfies requirements for a

variance. No neighbors are heard. MacGillivray makes a motion, Gambrell seconds the motion. Board approves the variance 5-0.

Petition of: Alexander & Patricia Simmons (owners) - for a Special Use Permit from Section 602- to allow Farm Promotion Accessory Uses at Simmons Farm including but not limited to Farm to Table Dinners, Pig Roasts, Weddings and the like. Said real estate located at 1942 West Main Rd. & Greene Ln. and further identified as Lot 3 & 4 on Tax Assessor's Plat 104. Owner Patricia Simmons presents her case. She testifies that Simmons Farm has had past successes with smaller events. Simmons promises to abide by the Large Event Provisions of the Town of Middletown (she will have each large event permitted by the Town Council). MacGillivray makes a motion, Gambrell seconds the motion. Board approves the Special Use Permit 5-0.

Petition of: Scott & Diana Davis (owners) - for a Variance from sections 603, 701 & 802 B- to demolish the existing detached garage and shed and construct a new 505 sq. ft. detached garage with a right side yard setback of 5.3' where 15' is required. Said real estate located at 68 Oak St and further identified as Lot 295 on Tax Assessor's Plat 108NW. Owner Scott Davis presents his case. Testimony supports that petition satisfies requirements for a variance. No neighbors are heard. MacGillivray makes a motion, Gambrell seconds the motion. Board approves the variance 5-0.

Petition of: David E Rushlow (owner) - for a Special Use Permit from section 602- to allow the expansion of a nonconforming use by the addition of an 18' x 20' detached garage. Said real estate located at 30-36 Ellery Ave and further identified as Lot 24A on Tax Assessor's Plat 116NW. Owner David E. Rushlow presents his case and Exhibit 1 (a map of his property showing that he is not exceeding lot coverage or setbacks, and is merely looking for extra storage). He explains that the storage building will not have running water. Testimony supports that petition satisfies requirements for a special use permit. No neighbors are heard. MacGillivray makes a motion, Sousa seconds the motion. Board approves the Special Use Permit 5-0.

Petition of: Lawrence B. Connell (owner)- C/O his attorney Robert M. Silva, Esq.- for a Variance from Sections 603 & 701- to allow the construction of a single family dwelling with a front yard setback of 10.48' where 25' is required. Said real estate located at Shore Dr. and further identified as Lot 2 on Tax Assessor's Plat 116SE.

Attorney Robert Silva presents the petition on behalf of Connell. He questions witnesses Jennifer Horton (JPS builders) and Engineer (Ron Blanchard). Witnesses testify that the home is applying for the least relief necessary. Board members Steven MacGillivray and Eric Kirton question why the size of the home could not be reduced to conform with all setbacks. Connell's next door neighbor Joseph Beua reviews the plans and voices support for the petition. Neighbor Jane Sweeny voices concern about the size of the house relative to the character of the neighborhood. Steve MacGillivray makes a

motion against the application. Chris Sousa makes a motion to support the application. During discussion MacGillivray voices concern about the size of the house relative to the lot size and questions the necessity for the variance. He also voices concern houses near proximity to the street given the front yard setback, and is concerned that the house diminishes the character of the neighborhood. MacGillivray votes against the application. Chairman Miller makes a motion to approve the application given the hardship of the closeness of the coastal feature. Sousa seconds. The variance is approved 4-1

Petition of: Georgiana Smith (owner)- for a Variance from sections 603, 701 & 803G- to construct a 480 sq. ft. 2nd story addition with a left side yard setback of 8.8' and a right side yard setback of 13.7' where 15' is required and 50 sq. ft. balcony with a rear yard setback of 24.6' where 30' is required. Said real estate located at 39 Renfrew Ave and further identified as Lot 241 on Tax Assessor's Plat 115SE. The Petition is called and the Petitioner is not present. Building inspector Jack Kane is able to reach the petitioner by phone, and at the petitioner's request is withdrawn without prejudice.

Petition of: Eric & Beth Brown (owners)- for a Variance from Sections 603, 701, 803B & 803G- to allow the demolition and reconstruction of a nonconforming garage and to add a 1,607 sq. ft. accessory family dwelling unit with a left side yard setback of 9' where 15' is required. Said real estate located at 100 Boulevard and further identified as

Lots 10 & 11 on Tax Assessor's Plat 108SE. Owners Eric and Beth Brown present their case. Testimony supports that petition satisfies requirements for a variance. No neighbors are heard. MacGillivray makes a motion, Gambrell seconds the motion. Board approves the variance 5-0.

Petition of: Eric & Beth Brown (owners)- for a Special Use Permit from Article 16- to allow an accessory family dwelling unit. Said real estate located at 100 Boulevard and further identified as Lots 10 & 11 on Tax Assessor's Plat 108SE. Owners Eric and Beth Brown present their case. Testimony supports that the petition satisfies requirements for a Special Use permit as the Brown's wish to provide a living accommodation for an aging mother-in-law. No neighbors are heard. Gambrell makes a motion, MacGillivray seconds the motion. Board approves the variance 5-0.

Petition of: Frances Leyemberger (owner)- for a Variance from Sections 603, 701 & 802B- to allow the demolition of the 640 square foot single family dwelling and to construct an 1120 square foot single family dwelling with a deck and covered porch having a front yard setback of 10.41' on Maloney Lane where 25' is required. Said real estate located at 146 Wolcott Ave and further identified as Lot 153 on Tax Assessor's Plat 121NW. Attorney Bruce Cox represents and questions petitioner Frances Leyemberger, her engineer Ron Blanchard, and her builder Daniel Cordeiro. Testimony supports that a hardship exists in the location of the current driveway and garage

relative to the placement of a new house. Neighbor Joanna Grocott speaks in support of the petition. Petition satisfies requirements for a variance. MacGillivray makes a motion, Olin seconds the motion. Board approves the variance 5-0.

Petition of: R.K. Middletown 3, LLC (owner)- by their attorney Matthew H. Leys- for a Special Use Permit from Sections 1212(D)(1), 1212(A) & 902- to allow the replacement of an existing freestanding plaza sign with a freestanding plaza post sign with 150 sq. ft. of sign area and a height of 21'- 10 1/2". Said real estate located at 1360 West Main Rd and further identified as Lot 54 on Tax Assessor's Plat 106.

Attorney Matthew Leys represents and questions Kevin Belmont (Director of Marketing for R.K. Middletown 3, LLC) Belmont testifies that the sign will be of identical size as the sign in the plaza across the street (approved by the board two years prior). Belmont discusses two key factors contributing to the necessity for a size variance on the sign including: The existing sign is not large enough given site constraints of the location. Belmont also testifies that to keep the plaza full, the larger sign is a necessity to sign-on new retail tenants in the future. MacGillivray makes a motion to approve the sign despite not liking the design of the sign. Miller seconds, and voices the same disapproval of the design. Board approves the Special Use Permit 5-0

Meeting adjourned at 9:01 p.m.