

# **Middletown Zoning Board Minutes**

**August 22, 2017**

**Administrative: Roll Call/Adoption of Minutes July 25, 2017**

**Roll Call: Chairman Jim Miller (present), Vice Chair Stephen MacGillivray (present), Olin Gambrell (present) Secretary Chris Sousa (present), Thomas Heaney (present), Eric Kirton (Present 1st Alternate), Henry Pine (2nd Alternate-present), Mark Nuytkens (3rd Alternate-present).**

**Adoption of Minutes July 25, 2017 meeting: (Olin Gambrell 1st, Steve MacGillivray 2nd)**

**Continuances/Withdrawals: NONE**

**Summary Hearings:**

**Petition of: Shawn & Michelle Mahoney (owners)- for a Variance from Section 603, 701(A)- to allow a one story 135 sq. ft. addition and an 8' x 10' deck addition with a rear yard setback of 45' where 60' is required. Said real estate located at 7 Bartlett Rd and further identified as Lot 78 on Tax Assessor's Plat 129.**

**The summary petition is read. The board agrees the variance is minor. There were no objectors present. (Steve MacGillivray 1st, Chris Sousa 2nd). The Petition passes 5-0**

## **Full Hearings:**

**Petition of: DSM Realty Corp (owner) by their attorney Jeremiah C. Lynch, III- for a Variance from Sections 603 & 701(A)- to allow a 2.6-foot encroachment into the side yard setback for the northeast corner of the dwelling, a 2.1-foot encroachment at the southeast corner and a .3-foot encroachment in the southwest corner of dwelling. Said real estate located at 21 Kane Ave and further identified as Lot 91 D on Tax Assessor's Plat 122.**

**The petition is read. Lynch presents the petition. David Malkin of JPS builders is questioned. It becomes apparent from the testimony of the Architect and builder that the variance requested is to remedy a mistake made during the design and construction of the home (specifically, the overhang in the eaves on the 2nd floor roofline was not calculated as part of the setback as it should have been).**

**Julia Tolland (neighbor)objects and also reads an objection letter from neighbor Kathrine Harin. Both objectors think it is not right that the building code was violated.**

**Leo McCann (neighbor) also testifies as the neighbor directly adjacent to the property. He feels that the board should grant the variance rather than have portions of the building taken down (which he feels may take away from the appearance of house, thus having a negative effect on his property).**

**The board has discussion and decides that the request for variance was the result of a mistake and that enforcing the proper setback may**

result in an unfavorable result for the neighbors specifically the testimony of Leo McCann is viewed as a key part of the decision. Jim Miller votes to approve the variance, Gambrell 2nd's. Board approves 5-0.

**741 West Main LLC (owner)- for a Special Use Permit from Section 602 & article**

**18- to allow the expansion of a shopping center by the addition of a 20' X 30' temporary tent for the sale and storage of fireworks. Said real estate located at 741 West Main Rd and further identified as Lot 452 on Tax Assessor's Plat 107NE.**

**West Main LLC (owner) present his case. He explains that he has been selling fireworks for the past 9 years with no incidents. The fireworks are sold June 15- July 15. Owner explains that the fire marshal inspects the tent and business annually. He requests to have the 5-year requirement to return to the zoning board for permission to be increased to 10 years.**

**Thomas Heaney votes in favor of the application and believes that granting the special use permit will not be detrimental to or substantially or permanently injure the appropriate use of property in the surrounding area. The rest of the board agrees. Miller 2nd's. Board approves 5-0.**

**Meeting adjourned 8:15 p.m.**