



## Town of Middletown Planning Department

350 East Main Rd., Middletown RI 02842 (401) 849-4027

### PLANNING BOARD MINUTES

**August 11, 2021 6pm**

Town Council Chambers – Town Hall  
350 East Main Road  
Middletown, RI 02842

#### **Board members present:**

Paul Croce, Chair

Bill Nash, Vice Chair

Michael Fenton, Secretary

Art Weber

John Ciummo

Joe Pierik

B.J. Owen

Ron Wolanski, Town Planner

Rita Lavoie, Principal Planner

Peter Regan, Town Solicitor

Michael Monti, Assistant Town Solicitor

Marissa Deausatel, Conflict Solicitor

*Mr. Croce called the meeting to order at 6:00pm*

1. Approval of the minutes of the July 14, 2021 regular Planning Board meeting.
  - A. **Motion** to accept by Mr. Nash, seconded by Ms. Owen
  - B. **Vote:** 7-0-0
2. **Correspondence**
  - A. Memo of the Town Planner dated July 27, 2021 re: Administrative Subdivision – Theresa M. Spengler & Silveira Irrevocable Trust, 1111 Wapping Rd. Plat 128, Lots 74 & 201
    1. **Motion** to receive by Ms. Owen, seconded by Mr. Weber
    2. **Vote:** 7-0-0
  - B. Email from Nancy Manning regarding KJ's area and hotels dated August 9, 2021.
  - C. Email from Valaie Gelb regarding KJs application dated August 11, 2021
  - D. Email from Bird Jones regarding KJs application dated August 11, 2021.
    1. **Motion** to receive by Ms. Owen seconded by Mr. Ciummo
    2. **Vote:** 7-0-0
  - E. Email from Karen Day regarding the content of landscape maintenance plans dated August 2, 2021.
    1. **Motion** to receive by Ms. Owen seconded by Mr. Weber
    2. **Vote:** 7-0-0
    3. It was noted that a memo from Tree Warden regarding Landscape Maintenance Agreements was distributed for review and discussion at the September 8, 2021 planning board meeting.
3. **Continuances**
  - A. **Public Hearing** - Application of GD Middletown West Main I, LLC for Development Plan Review, including request for waiver from certain design standards of the

Middletown Rules and Regulations Regarding the Subdivision and Development of Land Section 521, and recommendation to the Zoning Board of Review regarding special use permit application for development in Zone 1 of the Watershed Protection District, to allow construction of a ground-mounted solar photovoltaic installation on a property located at 1747 West Main Road, Plat 111 Lot 9A.

1. Mr. Jay Lynch, attorney for the applicant, asked for a continuance for further revisions to easement documents and site plans
2. **Motion** to continue to the September 8, 2021, meeting by Mr. Weber, seconded by Ms. Owen
3. **Vote:** 7-0-0

#### 4. Business

A. Request of the Zoning Board of Review for an advisory recommendation on the petition of Acacia Newport, LLC, Aryn Hawks, applicant, for special use permit to allow an addition to an existing residential dwelling located in Zone 1 of the Watershed Protection District. Property located at 32 Acacia Dr. South, Plat 109NE, Lot 178.

1. Mr. Regan and Mr. Monti recused, and Ms. Desautel sat as solicitor
2. Mr. Jay Lynch, attorney for the applicant, described the proposed remodeling of an existing structure, noting removal of a septic system, drainage
3. There was discussion regarding zoning relief necessary for encroachment into setbacks, conservation commission and town engineer review, no landscape maintenance plan necessary for zone 1 watershed protection district
4. **Motion** for a positive recommendation to the zoning board of review subject to the two conditions by Mr. Nash seconded by Ms. Owen:
  1. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153.
  2. The use of lawn chemicals, fertilizers, and other chemicals with the potential to adversely impact ground and surface water quality shall be prohibited within Watershed Protection District, Zone 1.
5. **Vote:** 7-0-0
6. Mr. Regan and Mr. Monti rejoined the meeting, Ms. Desautel left the meeting

B. **Public Hearing** - Application of Jack Gullison for Development Plan Review, including request for waivers from certain design standards of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land Section 521, for construction of a new commercial building, to include a 17-room hotel with a restaurant, and associated site work located on property identified as 59 Aquidneck Ave., Assessor's Plat 115SE, Lot 169.

1. **Motion** to open the public hearing by Mr. Weber, seconded by Ms. Owen

2. **Vote:** 7-0-0
3. Mr. Jay Lynch, attorney for the applicant, described the proposed development for a 17-room hotel with restaurant and function hall, and grade-level parking. He noted requests for waivers from the subdivision and development regulations.
4. Ms. Lynn Small, engineer for the applicant, described the current conditions of the site, the proposed site, noting the location of the 100-year flood zone, parking, site access, drainage, water quality treatment, landscaping, street trees on town property, utilities, state permits.
5. Discussion regarding the town owned property on Aquidneck Ave.
6. Discussion on calculations of building height, a height variance required due to exceeding the 40-foot height limit by the screening around the rooftop mechanical equipment, using average grade to calculate the allowable height, building official's height determination.
7. Mr. Lynch described proposed plan A and plan B noting the difference in roof design and rooftop screening elements
8. Mr. Regan asked for an opportunity to meet with the building official regarding the height determination
9. Mr. Weber spoke of necessary variance for a setback from a residential use to the north. There was discussion on residential uses within the commercial zone.
10. Mr. Lynch requested a continuance so the board could receive necessary advice from the building official and the town solicitor.
11. Mr. Weber spoke in favor of voting on the application tonight, concerns regarding the number of waivers
  1. **Motion** to continue to the September 8, 2021 meeting by Mr. Croce, seconded by Mr. Nash. Public meeting stays open.
  2. **Vote** 7-0-0

C. **Public Hearing** – Application of Newport Car Vaults c/o Blake Henderson for Development Plan Review including request for waivers from certain design standards of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land, Section 521 for construction of a new commercial building and site work for and auto storage building. Property located at 55 John Clarke Rd., Plat 115, Lot 33.

1. **Motion** to open the public hearing by Mr. Weber, seconded by Mr. Nash
2. **Vote:** 7-0-0
3. Mr. Girard Galvin, attorney for the applicant, described the proposed redevelopment for a car storage building with 32 condo-units. He noted a special use permit and height variance, planning board site visit, technical review committee recommendation, no zone 1 of the watershed protection district review necessary, gated entry no longer proposed
4. It was clarified that a special use permit for zone 1 of the watershed protection district is not necessary per the building and zoning official

5. Ms. Lyn Small, engineer for the applicant, described the impervious area design, pervious pavers, shifting the curb cuts, building height, utilities, landscaping plan, stormwater discharge, state permits.
6. Mr. Fenton asked about any onsite maintenance of vehicles.
7. Mr. Blake Henderson, owner/applicant, clarified that there are no commercial garage facilities proposed and a restriction on any commercial activities will be in the condominium documents.
8. There was discussion on automobile fluid discharge and disposal, electric lifts in units.
9. Mr. Pierik asked about existing versus proposed drainage, permeable paver parking spaces.
10. Ms. Small described catch basins, water quality treatment, swale on perimeter of the property, pre-treatment depression, sand filter, permeable paver design
11. Mr. Galvin reviewed the requested waivers
12. There was discussion on style and placement of trash receptacles, office as a showroom until developed, property management company, location of dumpster
13. Applicant to work with the town planner to determine location and style of trash receptacles
14. Mr. Galvin requested a waiver from providing bicycle racks
15. Landscaping waivers were reviewed
16. Mr. Spencer McCombe, architect for the applicant, described the architectural style, height variance, synthetic trim
17. There was discussion on the site lighting, dark sky compliance, no lot lighting, sign compliance, lofts inside units
18. Mr. Nash requested that as part of the approval a condition be placed to require no outdoor storage and the structure to be used for vehicle storage only
19. Mr. Croce asked about spill containment
20. Mr. Henderson spoke of a requirement for owners to have absorbent materials when working on vehicles in the condo documents, a lip at entrance to garage to contain spills
21. Members of the public were invited to speak
22. Mr. Antone Viveiros of 110 Indian Hill Road, asked about commercial design standards, zoning requirements, he spoke against approving any waivers.
23. **Motion** to close the public hearing by Mr. Nash, seconded by Mr. Weber
24. **Vote:** 7-0-0

25. **Motion** for a positive recommendation by Mr. Nash, seconded by Mr. Weber with approval of waivers 1-2, and 5-9, from the Town Planner's memo dated August 2, 2021 and subject to the following conditions:

1. Location and design of the trash receptacle subject to review and approval by Town Planner
2. Garage design must be modified to provide spill containment at the entrance to each unit.
3. Condominium agreement documents must prohibit outdoor storage of vehicles, commercial repair, and specify that the structure can be used only for vehicle storage.

26. **Vote:** 7-0-0

D. **Public Hearing** – Application for Development Plan Review by Building of Taste, LLC for alterations to a façade of an existing commercial building facing a public right-of-way and accompanying site work, and request for waivers from certain commercial development design standards of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land, and recommendation to the Zoning Board of Review on the application for development in Zone 1 of the Watershed Protection District. Property located at 170 Aquidneck Ave, Tax Assessors Plat 115SE lots 145, 146, and 147.

1. **Motion** to open the public hearing by Mr. Weber, seconded by Mr. Nash
2. **Vote:** 7-0-0
3. Mr. David Martland, attorney for the applicant, described the proposed site redevelopment requiring development plan review for changes to the façade of a commercial building, and a special use permit for development within the watershed protection district.
4. Ms. Patty Watson, owner/applicant, described the exterior improvements
5. Mr. Chris Arner, architect for the applicant, described the existing conditions and proposed improvements noting new windows, new covered entry on Aquidneck Ave., new rear deck, new rear staircase, proposed bicycle rack, changes to the parking area. He noted revised plans showing screened dumpsters (plan dated August 11, 2021)
6. Mr. Martland reviewed the waiver requests
7. Mr. Arner reviewed updated plans with changes to bring the landscape lights into compliance, changes to dumpster screening and trash receptacles to be compliant with town regulations.
8. There was discussion on landscape design and screening, limiting screening to preserve views, increase from existing landscaping, adding street trees after RIDOT work is complete
9. No comments from the tree commission
10. Discussion on additional trees, storage bins onsite
11. Mr. Nash suggested a condition that the storage units are removed at the end of the tenant's lease and investigate removal prior to that.

12. Mr. Martland described the stormwater runoff patterns noting no increase in impervious surfaces, zone 1 of the watershed protection district, topography doesn't allow for stormwater discharge into the drinking water body.
  13. No members of the public wished to speak
  14. **Motion** to close the public hearing by Ms. Owen, seconded by Mr. Weber
  15. **Vote:** 7-0-0
  16. **Motion** for a positive recommendation of the Plans dated August 11, 2021 to the Zoning Board of Review by Mr. Nash, seconded by Mr. Weber and granting of waivers 4-9 from the planner's memo dated August 3, 2021 subject to the following conditions:
    1. Landscape management plan should be updated to include replacement of plantings that die, and a scheduled for pruning and removing deadwood and cross branching of trees.
    2. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153.
    3. The use of lawn chemicals, fertilizers, and other chemicals with the potential to adversely impact ground and surface water quality shall be prohibited within Watershed Protection District, Zone 1.
    4. Storage units must be removed at expiration of current lease
    5. Applicant to speak with current tenant to remove current storage to an alternate location offsite and reported to the Town Planner
  17. **Vote:** 7-0-0
- E. Request of Mark Brennan, developer of the Stone Bridge Farm subdivision, for the Planning Board to set the amount of performance security for remaining subdivision improvements. 430 Mitchell's Lane, Tax Assessor's Plat 124, Lots 13, 14, 14A, 15.
1. Mr. David Martland, attorney for the applicant, reviewed the requested bond amount.
  2. Mr. Wolanski described the request and review of the Town Engineer, finance director review.
  3. **Motion** to recommend a performance security by Mr. Weber, seconded by Ms. Owen for the amount of \$310,232.50
  4. **Vote:** 7-0-0
- F. **Public Hearing** - Application for Development Plan Review by CCE Development, LLC for a new commercial building and additions and modifications to an existing commercial building, and request for waivers from certain commercial development design standards of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. Property located at 499 East Main Road, Tax Assessors Plat 113, Lot 27.

1. **Motion** to open the public hearing by Mr. Weber, seconded by Ms. Owen
2. **Vote:** 7-0-0
3. Mr. David Martland, attorney for the applicant, described the proposed redevelopment of a commercial building and addition of an accessory garage structure.
4. Mr. Jeff Lipshires, applicant, noted restrictions on construction equipment outdoors storage, adding dormers to existing structure, maintaining existing restaurant use
5. Mr. Spencer McCombe, architect for the applicant, distributed updated site plans (dated August 11, 2021). He reviewed the historic nature of the building, addition of windows, dormers, addition of an outdoor mezzanine, architectural style of the additions, screening of dumpsters.
6. Discussion from the planning board: compliance with New England architectural styles, natural materials
7. Mr. Mike Russel, engineer for the applicant, described the existing catch basin design and necessary restoration
8. There was discussion on the accessory building's additional stormwater management measures, previously approved new building not proposed at this time. Any new structures would go through the development plan review process.
9. Mr. Croce asked about the construction schedule and prevention of future catch basin failure.
10. No members of the public wished to speak
11. **Motion** to close the public hearing by Mr. Weber, seconded by Mr. Nash
12. **Vote:** 7-0-0
13. **Motion** by Mr. Nash, seconded by Mr. Weber for a positive recommendation of the site plans dated August 11, 2021 to the zoning board of review and granting of waivers 3-6 in the planner's memo dated August 3, 2021 and subject to the following conditions:
  1. Prior to permitting, the applicant must restore the existing retention basin to functionality as determined by the Town Engineer
  2. Prior to permitting, the stormwater management plan must be reviewed and approved by the Town Engineer
  3. Prior to permitting, the proposed sewer service must be reviewed and approved by the Director of Public Works
  4. Prior to permitting, parking requirements for proposed uses must be confirmed by the Zoning officer
  5. Additional staff-recommended conditions of approval:
  6. Architectural plans should be updated to include location of proposed exterior lights
  7. Trash receptacles and bike racks are noted on the Landscape/Litter Management Control Plan but are not shown on the site plan or

landscape plan. Receptacle and bike rack location should be shown on the landscape and site plan and design should be submitted to the Town Planner for review and approval.

8. Landscaped area calculations have not been updated from last landscaping plan. Percent landscaped area should be recalculated on landscape plan.
9. Landscape management plan should be updated to include replacement of plantings that die, and a schedule for pruning and removing deadwood and cross branching of trees.

14. **Vote:** 7-0-0

15. There was discussion about proceeding with the portion of the project that does not require zoning relief. It was agreed that since the applicant has not yet applied for zoning relief, they may request approval from the planning board for the portion of the project not subject to zoning relief. If the applicant desires to move forward with the second-floor mezzanine within the setbacks zoning relief is necessary.

16. **Motion** by Mr. Nash, seconded by Mr. Weber for approval the development plan review except for the portion of the project that requires zoning board approval subject to all necessary waivers and conditions listed earlier.

17. **Vote:** 7-0-0

G. Town Council request that the Planning Board research adopting an ordinance requiring esplanade-style sidewalks. Consider recommending ordinance language to the Town Council.

1. Mr. Regan asked for a chance speak with the Town Administrator about who should be the reviewer of the plans to determine compliance with proposed ordinance
2. **Motion** to continue to the September 8, 2021 meeting by Mr. Nash, seconded by Mr. Weber
3. **Vote:** 7-0-0

H. Discuss policy for removing items that are repeatedly continued from the Planning Board agenda.

1. Mr. Regan recommended that both the planning and zoning board should have the same policy and that the language be put in an ordinance form.
2. The board requested that the Town Solicitor propose the language to the zoning board and report back at the next meeting
3. **Motion** to continue to the September 8, 2021 meeting by Mr. Nash, seconded by Mr. Weber
4. **Vote:** 7-0-0

I. Discuss possible communication with the town's affordable housing committee regarding items of mutual interest and possible request for a joint meeting.

1. Mr. Weber spoke of wanting a member of the planning board to be on the committee

2. **Motion** to request that a member of the planning board be appointed to the affordable housing committee by Mr. Nash, seconded by Mr. Weber
3. **Vote:** 7-0-0

## 5. Updates

### A. Status Report on Planning Board action items.

1. Mr. Wolanski updated the status of the application fees review project noting updated overhead necessary, meeting with the Finance Director tomorrow
2. Mr. Croce asked for Town Council feedback on the mixed-use ordinance.

### B. Committee reports

1. Airport Overlay Zoning Subcommittee
  1. Runway protection zone area adjustment to be limited to RIAC properties and some other limited areas. There was discussion on a public workshop to review the draft, a request for the Town Solicitor's office to summarize the current state regulations and what the state and town are responsible for. Will be reviewed by the Planning Board at the September 8, 2021 meeting.
2. Use Table Subcommittee
  1. Meeting 8/16/21
3. Parking Ordinance Subcommittee
  1. Combined with use table
4. Tree Commission
  1. Middletown Valley Park trail system award a DEM grant
5. Open Space and Fields Committee
  1. Pickleball courts under discussion
6. Conservation Commission
  1. No update

**Motion** to adjourn by Mr. Weber, seconded by Mr. Ciummo  
**Vote:** 7-0-0

*Meeting adjourned at approximately 9:15pm*

Respectfully submitted:

Mike Fenton, Secretary