



PLANNING BOARD MINUTES  
Special Meeting  
April 26th, 2022, 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  
B.J. Owen  
John Ciummo  
Leon Amarant

**Also present:**

Anita Guo, Principal Planner  
Michael Monti, Assistant Town Solicitor

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

**1. Correspondence**

a. None

**2. Old Business**

- a. Review subcommittee recommendations for proposed amendments to the zoning use table, Zoning Ordinance Section 602, and related amendments to sections 703, 722, and 728, and Article 13.
- i. Planning Board members went through the proposed amendments to the zoning use table and asked questions.
  - ii. Mr. Amarant asked about the difference between a two-family dwelling and a dwelling with an ADU which Mr. Monti addressed. There was discussion about postponing the topic of ADUs due to pending state legislation.
  - iii. Mr. Amarant asked for the reasoning behind changing two-family dwellings use from not allowed to special use permit in some zones where there are smaller lots. Mr. Nash and Ms. Guo spoke about changing the ordinance to allow more opportunities for housing in Town and that there are lots in some zones that can

support additional dwellings. However, with a special use permit, it still allows the Town and Zoning Board of Review to put some parameters around the use.

- iv. Mr. Fenton asked about self-storage use in Town which Ms. Guo and Mr. Nash addressed that the zones where it is allowed was not modified but it was moved to another section in the use table.
  - v. There was discussion about solar energy systems, outdoor storage of bulk material, gasoline or electric vehicle service stations, and mini-golf course.
  - vi. There was discussion about the marijuana-related use section in the zoning use table which Ms. Guo noted that the current draft does not reflect the changes related to the proposed amendments to Section 727 – Marijuana Related Uses, since the proposed use table amendments were completed priorly.
  - vii. The Board by consensus requested a public workshop be scheduled for the proposed amendments to the zoning use table.
- b. Review and discuss information compiled by Planning Dept. staff regarding examples of regulatory approaches for short-term rentals and impact of short-term rentals on housing stock for year-round residents.
- i. **Motion** by Ms. Owen, seconded by Mr. Ciummo to continue this item to the May 10, 2023 regular Planning Board meeting. **Vote:** 6-1-0, with Mr. Weber voting in opposition.
- c. Review and recommendation to the Town Council on proposed amendments to the Middletown Zoning Ordinance, Town Code Chapter 152, Section 727 – Marijuana Related Uses.
- i. Mr. Nash shared that a Planning Board subcommittee worked on this ordinance with a consultant and expressed his satisfaction with the draft.
  - ii. There was discussion about the proposed distances from various sites that a cannabis-related use must be away from. Mr. Monti shared that some of the distances were provided by the State and some were at the municipality's discretion.
  - iii. Ms. Owen asked about an insurance requirement. Mr. Monti shared that the State has not yet established a Cannabis Control Commission and has not yet released a set of regulations for cannabis-related uses.
  - iv. Mr. Fenton asked about what happens when a residential development is placed in an allowed area. Mr. Monti addressed that if a residential development is there first, the marijuana-related establishment will still need to meet the one hundred feet away from a residential use requirement. While if a marijuana-related use is there first, it becomes a pre-existing non-conforming use. Mr. Monti also stated that the zoning district does not change when residential use is in a commercial zone.
  - v. Mr. Amarant asked about the specific requirements in the ordinance relating to resolution of cameras, etc. Mr. Nash specified that these requirements were recommended by the consultant and those standards are used nationally.
  - vi. There was discussion that the Town wants to have an ordinance in place preferably before state has released its regulations. The Town can revise the ordinance after that if it feels necessary to do so.

- vii. The Board by consensus requested a public workshop be scheduled for the proposed amendments to Section 727 but asked for it to be held before the use table public workshop which Ms. Guo agreed with.
  - viii. Mr. Fenton asked about regulation on home cultivation. Mr. Monti shared that under the recent legislation, certain home cultivation activities are allowed.
- d. Update on the processes for Planning Board recommendations to the Zoning Board of Review, and for appeals of Planning Board decisions to the Zoning Board of Review.
- i. Mr. Croce shared that this item is a result from a previous development plan review application that resulted in a Planning Board recommendation to the Zoning Board of Review. Mr. Croce stated that he found it concerning that the Zoning Board of Review did not receive the consulting engineer's report and made their decision without all the information.
  - ii. There was discussion that the Planning Board decision should be forwarded to the Zoning Board of Review with all materials including documents from the consulting engineer. Mr. Monti stated that is satisfactory and that the Planning Board's written decision should be sufficiently detailed so that rationale for recommending approval or denial is made clear to the Zoning Board of Review.
  - iii. There was discussion about the appeal process where the Zoning Board of Review must focus only on finding whether there was prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record rather than reevaluate the merits of the application. Several members of the Board agreed to be more detailed in the decision and why they vote a certain way.
  - iv. Mr. Monti clarified the difference between the two processes that the Planning Board's recommendation is strictly advisory and the Zoning Board of Review can discount it for any reason. The other is when the Planning Board has made a decision and it is being appealed. There was then discussion about having someone to represent the Planning Board during the appeal process.
  - v. Mr. Nash suggested that the whole Board could review a draft written decision before giving it the final approval. There was also a proposal that not every Planning Board decision letter to the Zoning Board of Review need be reviewed by the whole board but just the ones suggesting disapproval. Mr. Croce expressed concern with those suggestions.
  - vi. Mr. Croce suggested continuing the discussion to next month's Planning Board meeting to receive input from the Town Planner.
- e. Review of revised airport overlay zoning ordinance and recommendation to the Town Council.
- i. Ms. Guo provided a brief overview of the revised airport overlay zoning ordinance and changes to the overlay map. Ms. Guo noted as requested by the Planning Board, the Rhode Island Airport Corporation (RIAC) and their consultant were able to help the Town further refine the HCA zones. Mr. Croce noted that the Town now has the information to help residents who are in the two zones.
  - ii. Mr. Amarant asked clarifying questions about the difference between the runway protection zone (RPZ) and the height compliance area (HCA) which Ms. Guo addressed. Mr. Amarant noted how there are not many existing

residential homes in those two zones. Ms. Guo shared that there are some residential properties within the zones; however, the number has been reduced with the new zoning map.

- iii. Mr. Ciummo asked who would bear the expense for the surveys which Ms. Guo stated would be on the homeowners.
- iv. There was discussion about the process when a development violates the height requirement.
- v. Mr. Weber noted that this ordinance's actual impact on homes and people is minimal and that this ordinance protects aircrafts utilizing Newport State Airport.
- vi. **Motion** by Ms. Owen, seconded by Mr. Ciummo to forward this proposed airport overlay zoning ordinance to the Town Council for consideration. **Vote:** 7-0-0.

**3. Upcoming meetings:**

- a. May 10, 2023, 6pm – Regular monthly Planning Board meeting.

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

Meeting adjourned at approximately 7:45pm.

Respectfully submitted,  
Mike Fenton, Secretary