



PLANNING BOARD MINUTES
Regular Meeting
July 12th, 2023, 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:

Ron Wolanski, Town Planner
Michael Monti, Assistant Town Solicitor
Anita Guo, Principal Planner

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

Agenda items were heard in the following sequence: 1, 2, 3, 4A, 5A, 5B, 4B, 4C, 5C, and 6.

1. Approval of minutes

A. June 14, 2023 regular Planning Board meeting, and the special meeting of June 5, 2023.

i. Mr. Croce requested the order of the minutes be presented in chronological order.

ii. **Motion** by Mr. Weber, seconded by Ms. Owen to approve the minutes. **Vote:** 6-0-0

B. June 5, 2023 special Planning Board meeting

i. **Motion** by Mr. Ciummo, seconded by Ms. Owen to approve the minutes. **Vote:** 6-0-0

2. Correspondence

- A. Memorandum from the Town Planner dated June 8, 2023 re: Administrative Subdivision approval – Timothy E. Pafik, property located at 372 Indian Ave., Plat 129, Lots 65A & 65B
- i. Mr. Croce requested future administrative subdivision plans be made available online.
 - ii. **Motion** by Ms. Owen, seconded by Mr. Ciummo to receive said correspondence. **Vote:** 6-0-0.

3. Continuances

- A. None

4. Old Business

- A. **Public Hearing** – Application of Bucci Development Inc. for Development Plan Review for a proposed medical office building and associated site work, including requested waivers from certain design requirements of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. Property located on Valley Rd. approximately ¼ mile north of the intersection of Valley Rd. and East Main Rd., Tax Assessor's Plat 107NE, Lot 402B.
- i. **Motion** by Mr. Ciummo, seconded by Mr. Weber to open the public hearing. **Vote:** 6-0-0.
 - ii. Attorney Dave Martland introduced the project and shared that after receiving comments from Town Engineer, the plans have been revised with approval from RIDEM and RIDOT. Mr. Martland shared that the applicant intends to meet all twelve recommended conditions and is requesting three waivers. Mr. Martland noted the medical office use in Limited Business zone is by right.
 - iii. Mr. Nash arrived at 6:05pm.
 - iv. Mr. Weber expressed concern with the number of conditions and questioned the completeness of the plans. Mr. Martland and Ms. Small addressed each condition and reiterated that they intend to meet each condition. Mr. Martland stated that they meet the percentage requirements for window glazing and landscaping but need to add the details to the plans.
 - v. Mr. Croce asked about landscaping on the southerly property line which Ms. Small addressed satisfactorily.
 - vi. Ms. Small spoke about circulation, utilities, and drainage. Mr. Nash raised questions about the plan to integrate with the southerly abutter's existing swale. Owner Brian Bucci stated that he has an agreement with the existing owner to cooperate on integrating into the abutter's existing swale. There was discussion about adding a stormwater management easement.
 - vii. Architect David Horton presented the proposed flat roof and stated that HVAC equipment would be shielded.
 - viii. Mr. Croce asked about the windows at the rear of the building that faces residential properties and use. The applicant stated that they will be providing a six feet high landscape buffer abutting the residential uses.
 - ix. Mr. Fenton asked about the rear roofline which the applicant addressed.

- x. Mr. Croce noted that the traffic study was done with the original design. Mr. Martland addressed the building has been reduced in size and the traffic impact is less than the original, larger building. Mr. Martland and Ms. Small noted that the building size and parking spaces have been reduced from the original design. The impacts on the right of way are thus less likely than is shown on the traffic study.
- xi. Ms. Owen asked about Tree Commission comments which Mr. Martland stated the applicant will address.
- xii. Mr. Croce invited members of the public to speak. No one wished to speak.
- xiii. **Motion** by Mr. Weber, seconded by Ms. Owen to close the public hearing.
Vote: 7-0-0
- xiv. **Motion** by Mr. Nash, seconded by Mr. Ciummo to make the five required findings of fact, grant certain waivers from the commercial development design requirements of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land (Regulations), and approve the application, subject to the following recommended conditions of approval.
 - a. Recommended conditions:
 - 1. Prior to permitting, the plans shall be revised to include a “Do-Not-Enter” sign facing west at the driveway on the north side of the proposed building where traffic exits the rear parking lot.
 - 2. Prior to permitting, an ADA-compliant ramp shall be added at the rear entrance of the building.
 - 3. Prior to permitting, the plans shall note the placement of the guard rail and reflective signage at the end of Bristol Rd.
 - 4. Prior to permitting, the Stormwater Operations and Maintenance Manual shall be revised to include monitoring the runoff entering the site from Bristol Rd. for erosion. If necessary, erosion control measures shall be implemented.
 - 5. Prior to permitting, a detail of the recommended one-foot-wide trench drain at the entrance from Valley Road shall be added to the plans.
 - 6. Prior to permitting, a detail of the trash rack to be included in the detention basin design shall be added to the plans.
 - 7. Prior to permitting, the plans shall be revised to indicate that the limits of proposed infiltration ponds shall be staked to prevent heavy equipment and materials from entering these areas during construction.
 - 8. Prior to permitting, the plans shall be revised to provide 14 bicycle spaces.
 - 9. Prior to permitting, the applicant shall provide the percentage of glazing on the road-facing building façade.

10. Prior to permitting, the applicant shall provide the calculation of landscaped area on the property.
11. Prior to permitting, the landscape plan shall be revised to include a 6' high landscape screening along the lot lines abutting residential properties or uses.
12. Prior to permitting the landscape plan shall be revised to address comments of the Middletown Tree Commission as contained in email correspondence to the Planning Board dated July 4, 2023.
13. Ongoing inspections and maintenance of the stormwater management system shall be conducted in accordance with the approved operations & maintenance plan. A stormwater facilities maintenance easement, subject to the approval of the Town Solicitor, shall be recorded which will obligate the owner to properly maintain the stormwater system, and provide for, but not obligate the Town to access the easement area to perform necessary maintenance at the owner's expense, should the owner fail to do so.

b. Waivers considered:

1. **Section 521.1.B.1** – Parking lots located to the rear or side of building OR where site configuration does not allow for parking at rear or side, no more than one row of parking is located at the front, or two rows in the case of large-scale shopping centers and other situations where site conditions warrant; in either case, the number of parking spaces does not exceed 50 spaces. **Two rows of parking are located at the front of the building.**
2. **Section 521.2.C** – Building exteriors and roofs constructed of traditional materials. **Applicant is proposing the use of a metal roof, cellular composite siding, fiber cement board, and other synthetic materials.**
3. **Section 521.3.D.3** – A landscaped buffer at least 10' wide with a minimum 5' planting strip is provided between buildings and parking lots/driveways. **Proposed design does not comply at northerly, southerly, and westerly elevations.**

c. **Vote:** 7-0-0.

B. Review and recommendation to the Town Council on draft fertilizer and pesticide control regulations, proposed amendment to Town Code Chapter 153- Stormwater Management, Section 153.80.

- i. Mr. Wolanski shared that he and Mr. Croce have met with the Town's conflict Solicitor Marissa Desautel to discuss the draft ordinance. Ms. Desautel will work on providing a revised draft ordinance and a draft policy to address the Planning Board's concerns. Mr. Wolanski shared he is gathering other examples. Mr. Wolanski recommended a continuance to the September 13th Planning Board meeting.
- ii. Mr. Weber expressed concern with the draft and noted the exclusions of golf courses and agricultural uses.
- iii. Mr. Ciummo expressed concern and support for public education.

- iv. Mr. Wolanski clarified the difference between ordinance and policy: an ordinance is enforceable, while a policy does not have enforcement mechanism and power but it expresses the Town's wishes.
 - v. **Motion** by Ms. Owen, seconded by Mr. Weber to continue this item to the September 14th regular Planning Board meeting. **Vote:** 7-0-0.
- C. Discuss and provide recommendation to the Town Council on draft amendments to the Middletown Zoning Ordinance, Chapter 152, to create a new section to implement inclusionary zoning for affordable housing.
- i. Mr. Wolanski shared that this item was voted to forward to the Town Council but due to recent changes to the State statute, the ordinance needs to be revised to meet the changes in State law. Mr. Wolanski summarized that 25% of total units need to be affordable and two market rate units per one affordable unit. Result will be doubling the density of underlying zoning restrictions. Mr. Wolanski noted that Town Council requested Planning Board to look into inclusionary zoning to address affordable housing. Mandatory for major land development is 10 lots. Could make it optional. Most subdivisions are minor.
 - ii. Mr. Weber expressed concern with setbacks – state law - setbacks, lot coverage will be reduced to accommodate.
 - iii. Mr. Nash noted significant changes to state law for land use. Mr. Monti shared the Town Solicitor's office will be reviewing the changes and will provide a list of actionable items. Mr. Croce and Mr. Nash supported continuing the item to allow the Town Solicitor to review changes.
 - iv. **Motion** by Ms. Owen, seconded by Mr. Weber to continue this item to the August 9th regular Planning Board meeting. **Vote:** 7-0-0.

5. New Business

- A. **Public Hearing** – Application of Cardinal 159 LLC (IHOP) for Development Plan Review for 1,300+/- sq. ft. expansion of existing restaurant building, landscaping, and associated site work, and including requests for waivers from certain provisions of the commercial development design requirements of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. Property located at 159 West Main Rd., Tax Assessor's Plat 108, Lot 45.
- i. Mr. Amarant recused himself from this item.
 - ii. **Motion** by Mr. Weber, seconded by Ms. Owen to open the public hearing. **Vote:** 6-0-0.
 - iii. Attorney Girard Galvin introduced the project and shared it received TRC approval, the applicant is agreeable to the recommended conditions, and the applicant will be seeking zoning relief for expansion of restaurant serving alcohol and a variance for the side setback.
 - iv. Owner Bill Cardinal spoke about the location of the expansion and shared that from operational standpoint, the location makes sense. Mr. Cardinal shared that he heard of no opposition from abutters. There was discussion about pedestrian access from West Main Road, landscaping, and fences.
 - v. Mr. Fenton asked about restaurant operations during construction which Mr. Cardinal stated that they hope to keep operations going.
 - vi. Mr. Weber noted the landscaping waivers and expressed his support due to the existing conditions.

- vii. Mr. Nash expressed support for pedestrian access, new fences on westerly and southerly property line, and removal of the existing fence on the northerly property line.
- viii. Ms. Owen expressed support and spoke about the Tree Commission's comments.
- ix. Mr. Croce expressed support and agreed with Mr. Nash for solid fencing. Mr. Croce asked about the amount of landscaping and parking lot trees. Engineer Matt Viana spoke about the addition of new landscape islands and that they are limited in space due to need to retain parking spaces. Ms. Owen stated that the Tree Commission is aware of the difficulty and availability in obtaining 4" caliper trees. Mr. Galvin stated that they will provide 4" caliper trees if available but is still requesting the waiver due to amount of trees being provided.
- x. Mr. Viana stated based on his professional opinion, he found the project to have no negative impact on traffic flow, circulation, neighboring use; or public health, safety and welfare. Mr. Viana stated he finds the proposed project consistent with the comprehensive plan.
- xi. Mr. Fenton asked clarification questions about the building design, roofline, windows, and siding which the applicant addressed.
- xii. Project manager Jack Kane addressed the building materials waiver and spoke about the durability of synthetic materials for commercial buildings. Mr. Nash asked about pedestrian pathway and access from the West Main Road sidewalk. Mr. Kane spoke about moving underground utilities and using pavers from West Main Road sidewalk to provide pedestrian access to building.
- xiii. Mr. Croce invited members of the public to speak. No one wished to speak.
- xiv. **Motion** by Mr. Nash, seconded by Ms. Owen to close the public hearing. **Vote:** 6-0-0.
- xv. **Motion** by Mr. Nash, seconded by Ms. Owen to make the five required findings of fact, grant certain waivers from the commercial development design requirements of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land (Regulations), and forward a positive recommendation to the Zoning Board of Review, subject to the following recommended conditions of approval.
 - a. Recommended conditions:
 - 1. Prior to permitting, applicant shall provide a Stormwater System Operations and Maintenance Plan, subject to the approval of the Town Engineer.
 - 2. Prior to permitting, applicant shall provide the design of the exterior trash receptacle(s).
 - 3. Prior to permitting, the pedestrian walkway from West Main Road to the building shall be incorporated into the plans.
 - 4. Prior to permitting, the plans shall be revised to include a fence on the westerly and southerly property lines, to provide an opaque visual barrier.
 - b. Waivers considered:

1. **Section 521.2.C** – Building exteriors and roofs constructed of traditional materials. **Applicant is proposing the use of a metal roof, fiber cement board, and other synthetic materials.**
2. **Section 521.3.B** - Planted landscape must occupy a minimum of 25% of project area. **Applicant is providing 18% of landscaping.**
3. **Section 521.3.D.1** – A landscaped buffer at least 10' wide provided along all property lines. **Not provided. This is an existing, non-conforming condition.**
4. **Section 521.3.D.2** – A landscape buffer at least 20' with screening at least 6' high shall be provided for lot lines abutting residential properties or uses. **Not provided. This is an existing, non-conforming condition.**
5. **Section 521.3.D.3** – A landscaped buffer at least 10' wide with a minimum 5' planting strip is provided between buildings and parking lots/driveways. **Not provided. This is an existing condition.**
6. **Section 521.3.F.1** – Street trees. **No street trees are provided along the property boundary. This is an existing condition.**
7. **Section 521.3.F.2** – Parking lot trees. Minimum of one tree is provided for every 5 parking spaces and trees must be at least 4" in caliper size and 7' tall at time of planting. **Applicant is providing three additional trees but the number and caliper size of trees do not meet requirements.**

c. **Vote:** 6-0-0.

B. Request of Peter Gallipeau, developer of the Saltwood Farm subdivision, Bailey Ave., Plat 126, Lot 4, for extension of the time to record the approved plans for subdivision phase 3 to January 31, 2024.

- i. Mr. Ciummo recused himself from this item.
- ii. Mr. Wolanski shared the developer is seeking an extension to record plans for phase 3 of the Saltwood Farm subdivision and that phase 3 work is ongoing.
- iii. Developer Peter Gallipeau spoke about work on driveway access, replacing the retaining wall, and construction timeline.
- iv. Mr. Nash asked about correction of improperly-installed drainage swale which Mr. Gallipeau shared has been resolved.
- v. Mr. Croce asked whether Mr. Gallipeau will be ready to record plans by the expiration of the requested extension which Mr. Gallipeau confirmed he would be.
- vi. **Motion** by Mr. Weber, seconded by Ms. Owen to approve an extension to record the approved plans for subdivision phase 3 to January 31, 2024. **Vote:** 6-0-0.

C. Discuss zoning ordinance and subdivision regulations amendments and other action needed in response to legislation passed during the RI General Assembly's 2023 session.

- i. **Motion** by Ms. Owen, seconded by Mr. Weber to continue this item to the August 9, 2023 regular Planning Board meeting. **Vote:** 7-0-0.

6. Updates

A. Status Report on Planning Board Action Items.

- i. Mr. Weber shared updates on the Rural Village District.
- ii. Mr. Nash suggested reviewing and updating the Town's commercial design standards in the Fall.

B. Committee reports

- i. Tree Commission – Ms. Owen provided information about spotted lantern flies.
- ii. Open Space and Fields Committee – Mr. Fenton shared the committee did not have a meeting due to lack of quorum.
- iii. Conservation Commission – Mr. Amarant stated there are no updates.
- iv. Affordable Housing Committee – Mr. Weber shared updates on ongoing housing projects.

C. Upcoming meetings:

- i. August 3, 2023, 6pm – Planning Board Public Workshop – Zoning Ordinance Use Table Amendments
- ii. August 9, 2023, 6pm – Regular monthly Planning Board meeting.

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

Meeting adjourned at approximately 8:15pm.

Respectfully submitted,
Mike Fenton, Secretary