

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

One Kings Highway
Middletown, NJ 07748-2504

JAMES HINCKLEY
Chairman



AMY H. CITRANO, P.P., A.I.C.P.
Director of Planning

ERIN URIARTE
Secretary

Organized December 14, 1667
"Pride in Middletown"

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ZONING BOARD MEETING MINUTES JANUARY 23, 2023

A Regular Meeting of the Zoning Board of the Township of Middletown was held in the main meeting room at Town Hall, One Kings Highway, Middletown New Jersey at 7:00 PM on January 23, 2023. Chairman Hinckley called the meeting to order and read a statement of compliance with the Open Public Meetings Act. All notification for this meeting was given pursuant to the Open Public Meetings Act at least 48 hours prior to this meeting.

Roll call was taken with the following members present: Mr. Wrede, Mrs. Bouw, Mr. Hinckley, Mr. Truscott, Mr. Hibell, Mr. Bane, Mrs. Rogers, Mrs. Sheridan, Mr. Shanker

Absent: Mr. Barvels

Also present: Gregory Vella, Esq., Board Attorney; Amy H. Citrano, P.P., Township Planner; Morgan Astorino, Assistant Planner; Erin Uriarte, Board Secretary

A Salute to the Flag followed.

RE-ORGANIZATION OF THE BOARD

Election of the Chairman – Mrs. Rogers offered a motion to nominate James Hinckley as Chairman of the Board, seconded by Mrs. Bouw.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

Election of the Vice Chairman – Mr. Hibell offered a motion to nominate Emil Wrede as Vice-Chair of the Board, seconded by Mrs. Bouw.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

Appointment of Board Attorney – Mr. Hinckley offered a motion to appoint Gregory Vella, Esq. of Collins, Vella & Casello as Board Attorney, seconded by Mrs. Rogers.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

Chairman Hinckley advised he will be recusing himself from the Engineer appointments due to a conflict.

Many Neighborhoods. One Middletown!

Belford ◊ Chapel Hill ◊ Fairview ◊ Harmony ◊ Leonardo ◊ Lincroft ◊ Locust ◊ Middletown Village
Monmouth Hills ◊ Navesink ◊ New Monmouth ◊ North Middletown ◊ Nut Swamp ◊ Oak Hill ◊ Port Monmouth ◊ River Plaza

Appointment of Board Engineer – Mrs. Hinckley offered a motion to appoint David Hoder of Hoder Associates and Robert Bucco of Collier Engineering as the Board Engineers, seconded by Mr. Bane.

Roll Call:

Ayes: Wrede, Bouw, Truscott, Hibell, Bane, Rogers, Sheridan

Nays: None

Appointment of Board Secretary – Mr. Hinckley offered a motion to appoint Erin Uriarte as Board Secretary, seconded by Mr. Hibell.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

APPROVAL OF MINUTES

November 28, 2022 – MR. WREDE OFFERED A MOTION TO APPROVE THE MINUTES OF NOVEMBER 28, 2022, SECONDED BY MRS. ROGERS.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

APPROVAL OF RESOLUTIONS

Resolution Adopting Meeting Dates & Designating Official Newspapers for 2023 – MRS. ROGERS OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. BANE.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

#2022-015, Brixmor Middletown Plaza LLC, Block 615, Lots 84, 86, 87, 88, 90& 92 – Granting

Approval for Bulk Variances for Signage – MR. HIBELL OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. WREDE.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

ADMINISTRATIVE MATTERS

Payment of Vouchers – Ms. Citrano explained this step will no longer be required as the invoices will be reviewed internally prior to processing.

OLD BUSINESS – Mr. Vella announced that application **#2022-008, Ignazio Giuffre, Block 885, Lot 15, 2 Browns Dock Road, Application for Bulk Variances** is being carried to February 27, 2023, with no further notice required by the applicant.

NEW BUSINESS

#2022-017, Almost Home Market, Inc., Block 1049, Lot 1, 276 Sunnyside Road, Appeal of the Zoning Officer's Decision & #2022-017, Almost Home Market, Inc., Block 1049, Lot 1, 276 Sunnyside Road, Application for Use Variance – Mr. Vella explained the Board's role in hearing an appeal of the Zoning Officer's Decision. He noted that the applicant has already applied for a Use Variance application, in the event the Board upholds the Zoning Officer's decision, they will be able to move forward with the use variance request. Chairman Hinckley agreed to

hearing all testimony at once and then doing the two votes separately. Mr. Vella noted the Technical Review memo of the Planning Director was marked as Exhibit ZB-1.

Michael Steib, Esq. appeared on behalf of the applicant. He apologized that his Planner is unavailable tonight, so he only has one witness.

Robert Doran was sworn in as the Principal of Almost Home Markets. He explained his role with the company noting that they lease the property. They opened in March 2020 and currently serve sandwiches and salads, but no dinner. They have about 4-5 employees and open a 7 am. Mr. Doran indicated they are like a “coffeeshop” type business - they close at 3 pm however the cleaner and the baker stay later. The peak hours are between 10:30 and 1:30 and they usually have about 6-7 employees at that time. He added that the Zoning Officer had determined the tables and chairs were an expansion of the non-conforming use. Mr. Doran noted that not all patrons stay – some grab and go. If the chairs are granted, he doesn’t see it affecting the peak hours or create an influx of customers. They are currently operating with 24 seats, however they are seeking permission for only 18 seats. The menu will not change, and additional staff will not be added. They currently have one server who takes orders and serves the food.

Board members asked several questions related to staff hours and peak hours.

Ms. Citrano asked if the restaurant allows reservations. Mr. Doran replied, no. Ms. Citrano asked if they host private parties at the location. Mr. Doran advised they have in the past but will not going forward.

Mr. Vella advised the Board will allow for cross-examination after all testimony has been presented. He announced this application is being carried to a special meeting to be held February 13, 2023, in the main meeting room at 1 Kings Highway, Middletown, New Jersey. The applicant will be required to re-notice.

John Kaplan, Esq appeared on behalf of the objectors. He stated that the appeal was untimely and submitted beyond the 20-day appeal period. He added that this should be a D1 use variance and site plan approval should be required. He also objects to the notice. Mr. Vella stated that they will discuss the timeframe at a later date.

Mr. Hinckley allowed a member of the public to speak.

Michelle Kula indicated she was not in favor of the matter being carried; she has been waiting a year. Mr. Hinckley explained the process. Mr. Vella explained the applicant only had one witness this evening – they did ask to be carried but the Board insisted they get started. The application is being carried to a Special Meeting on February 13, 2023.

At this time, the Board took a brief recess and reconvened at 8:03 pm.

#2022-022, JLV Holdings, LLC, Block 488, Lot 1, 4.01 & 4.02, 550 Highway 36, Application for Minor Subdivision and Major Site Plan Approval – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. Mr. Vella listed several exhibits that were marked.

Mr. Hibell advised he will be stepping down and recusing himself from the application.

Rick Brodsky, Esq. appeared on behalf of the applicant. He explained they are seeking Minor Subdivision and Site Plan approval, for three existing properties. The site plan will be known for the property that operates as Middletown Trailer on Highway 36, along with two adjacent residential properties on Morris Avenue. All properties are located in the B-3 zone and Middletown Trailer is a permitted use in the zone. The applicant is seeking preliminary and final site plan approval for site improvements on the Middletown Trailer site, along with a lot line adjustment between the residential properties. The existing non-conformities will not be exacerbated. They are increasing the lot area for Middletown Trailer property, using the extra land to clean up the site and delineate parking on the lot. The operation of the business will remain exactly the same. The applicant is proposing fencing, grading and drainage changes to give a significant upgrade to the area.

Charles "Buddy" Walters was sworn in as a principal of JLV Holdings, LLC. They acquired the property four years ago and have sold and repaired trailers at the location since. The hours of operation are Monday through Friday 8:00 am till 5:00pm and Saturday from 8:00 am until 1:00 pm. They have about five employees on site and expect no change to hours or employees as there are no building changes proposed.

James Kennedy was sworn in and accepted as an expert Engineer. An aerial photo exhibit was marked as Exhibit A-3. He noted that the red line outlines the subject properties located in the B-3. Zone. He explained the location and surrounding roadways. A subdivision Exhibit was marked as Exhibit A-4. The yellow area shows the commercial property as it exists. The green and blue areas are the existing residential lots with the blue showing the land to be acquired by the applicant. The residential lots will remain oversized for the adjacent R-10 zone. Adding the additional 28 feet to the commercial lot will allow for additional storage and maneuvering space for the trailers. They are proposing grading and drainage changes along with landscaping and fencing to mitigate any impact on the neighbors. Referring to Exhibit A-2, Mr. Kennedy pointed out the parking areas, noting that the parking exists, they just need to stripe the pavement. Three stalls are a required and they are providing 6. An ADA space will be added directly in front of the building. They are also adding 284 feet of recharge trench, as they have found the soils are good for infiltration, even using conservative calculations. This will ensure no run-off to the neighboring lots. They are bringing the commercial lot closer to conformity while installing a stormwater management system that will be invisible to the neighbors. The applicant agrees to comply with all comments in the professional review letters.

Mr. Hoder noted a waiver requirement for a 50-foot buffer. He added that lighting does not conform, however he recommends a waiver be granted with a stipulation of no new lighting. A waiver is also required for the lack of an off-street loading area. He added that a waiver for sidewalks is also required. Mr. Kennedy explained the unloading will be done at the rear of the building. Ms. Citrano clarified that no waiver for sidewalks is required as they are not creating any new lots.

Mr. Wrede indicated a concern with the penetration into the Hollie Drive property.

Ms. Citrano added that outdoor storage is permitted with site plan approval. There are setbacks required however the proposed fence is justification for relief from that requirement. She also clarified that no new signage is proposed.

John Taikina was sworn in and accepted as an expert Planner. Mr. Taikina explained the various documents reviewed as part of his involvement with the application. The applicant is seeking a D2 variance for the residential lots in a commercial zone. A lot coverage variance is required as they are at 98.4% however that is being mitigated by the stormwater recharge system. There is also substantial landscaping and buffering proposed. He feels the applicant is improving the current conditions and sees no detriment in granting the variance relief.

Board members indicated they had no further questions.

Mr. Hinckley opened the hearing to members of the public who wish to speak.

Charles Eastmond, 138 Morris Avenue, was sworn in and explained he lives to the rear and across Morris Avenue from the property in question. He indicated concern with employees parking on Morris Avenue during COVID and he feels it is unethical to park on a public roadway.

Mr. Hinckley explained that is an off-site condition the Board cannot impose on the applicant. Mr. Vella added that the employee spaces are marked on the site plan. Mr. Brodsky added that overflow parking can go in the trailer storage area.

Seeing no further comments from the public, Mr. Bane offered a motion to close the public portion, seconded by Mrs. Rogers. All present members voted in favor by voice vote.

Mr. Vella advised that should the Board act favorably the following conditions of approval would be added: a six foot fence with two feet of lattice along the new property line, Freehold Soil approval and compliance with professional comments.

MR. WREDE OFFERED A MOTION TO APPROVE THE APPLICATION, SECONDED BY MRS. ROGERS.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Bane, Rogers, Sheridan

Nays: None

EXECUTIVE SESSION – Mr. Bane offered a motion to enter into Executive Session to discuss litigation, seconded by Mrs. Rogers.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Truscott, Hibell, Bane, Rogers

Nays: None

ADJOURNMENT

MR. HIBELL OFFERED A MOTION TO ENTER BACK INTO REGULAR SESSION AND ADJOURN THE MEETING AT 9:22 PM, SECONDED BY MRS. ROGERS. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte

Board Secretary