

TOWNSHIP OF MIDDLETOWN

Planning Board
One Kings Highway
Middletown, NJ 07748-2504

DAVID MERCES
Chairman



Organized December 14, 1667
"Pride in Middletown"

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PLANNING BOARD MEETING MINUTES FEBRUARY 2, 2022

A Regular Meeting of the Planning Board of the Township of Middletown was held in the main meeting room at Town Hall, One Kings Highway, Middletown, New Jersey, at 6:30 P.M. on February 2, 2022.

Chairman Mercés read a statement to advise the notice requirements provided for the Open Public Meetings Act have been satisfied. Pursuant to the Open Public Meetings Act and Laws of 1975, the public has been notified that the Planning Board will meet on February 2, 2022, in Town Hall.

The Middletown Planning Board notified the Two River Times, the Independent and the Asbury Park Press. Notice of the meeting was filed with the Township Clerk and posted in Town Hall. 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: Chairman Mercés, Vice-Chairman Rathjen, Committeeman Settembrino, Mr. Berson, Mr. Rentschler, Mr. Colangelo, Mr. Schweizer, Ms. Eteson, Mr. Banasiak

Also present: James Gorman, Board Attorney; Robert Keady, PE, Board Engineer; Amy H. Citrano, Director of Planning; Morgan Astorino, Assistant Planner; Erin Uriarte, Board Secretary

A salute to the flag followed.

The Board Secretary read the agenda.

APPROVAL OF MINUTES

MR. SCHWEIZER OFFERED A MOTION TO APPROVE THE MINUTES OF JANUARY 20, 2022, SECONDED BY MR. RATHJEN. ALL PRESENT ELIGIBLE MEMBERS VOTED IN FAVOR BY VOICE VOTE.

RESOLUTIONS

#2021-102, Cedar Village Tax Lien LLC, Block 791, Lot 20, 150 Monmouth Avenue, Resolution Granting Minor Subdivision with Variances – MR. RATHJEN OFFERED A MOTION TO APPROVE THE RESOLUTION, SECONDED BY MR. BERSON.

Roll Call:

Ayes: Rathjen, Berson, Rentschler, Colangelo, Schweizer, Eteson

Nays: None

ADMINISTRATIVE MATTERS

Payment of Vouchers – Mr. Rathjen advised that he has review the Payment of Vouchers and found them to be in order. Mr. Schweizer offered a motion to approve the Payment of Vouchers for February 2, 2022. This motion was seconded by Mr. Colangelo. All present members voted in favor by voice vote.

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

OLD BUSINESS

#2019-107, Majansky (Formerly: Barbieri & Adamo), 142 New Monmouth Road, Block 630, Lot 25, Application for Minor Subdivision – Mr. Gorman noted that the variances are in order and the Board has jurisdiction to hear this matter. He added that there had been a previously been an application for a subdivision of this property many years ago, before COVID; however, there is a new owner and a new plan so they will be considering this a new application.

James Spanarkel, Esq. introduced himself on behalf of the applicant, Jake Majansky. He advised they are here this request minor subdivision approval with variances. The new owners have a similar plan to what was originally presented however the new plan takes the comments of the Board members and Professionals into consideration. The applicant has also obtained Monmouth County Planning Board Conditional Approval, as this property is located on a County Road.

Patrick Ward, P.E., P.P., was sworn in and accepted as an expert Engineer and Planner. He described the property location and surrounding areas. A variance is required for the lot frontage as well as lot diameter, which is driven by the lot frontage. The driveway will comply with the five-foot setback requirement and will be paving the gravel area. The lot coverage is being substantially reduced due to the removal of the driveway. The curb cut will be adjusted to comply with County and Township requirements. The newly proposed lot can be built upon without creating any new variances and all new utilities to the new lot will be underground. The applicant is proposing five trees on each lot in order to comply with the Ordinance. They are requesting a waiver from street trees as it is a County Road, and they are concerned with any future roadway widening. The front yard setback for the existing home with not compliant, however no change is proposed. There are several pre-existing non-conformities associated with the existing home, however they have existed for many years with no impact on the neighbors. The existing garage will remain. Both lots will require a lot frontage variance. 125 feet of frontage is required, and they are proposing 87.5 feet for each lot. The lot diameter proposed is 47.5 feet for each lot where 77 feet is required. The reduced lot frontage is what drives the need for the lot diameter variance. The existing garage will remain and will now be located 10.5 feet from the property line, where 20 feet is required. An aerial exhibit was marked as Exhibit A-1. Mr. Ward noted that the yellow lots are the existing undersized lots in the neighborhood and the blue depicts the subject lot, which is currently oversized. He feels there is no precedent being set in that the other lots are developed and not an appropriate size for subdivision. With the current home set far to the side of the existing lot, it creates a unique situation to fill the void in the streetscape. If denied, the property owner may decide to demolish the existing home and could build up to a 6,500 square foot home, which would not be in character with the neighborhood. Therefore, Mr. Ward feels the plan as presented is a better design alternative. He also finds the plan advances several purposes of the Municipal Land Use Law, specifically that it promotes air, light, and open space.

Ms. Citrano asked if Mr. Ward had studied the median lot frontage. Mr. Ward advised not exactly, but it is approximately 100 feet. Ms. Citrano asked if there will be a tree preservation plan for the mature trees on the western lot? Mr. Ward advised not at this time, he does know the large holly at the roadway will be removed. The applicant is to plant 5 new trees on each lot and will do so.

Mr. Ward advised he will comply with all outstanding comments in the T&M review letter.

Mr. Rathjen indicated concern with the lot circle variance, noting that the intent is to ensure useable yards and to avoid irregular shaped lots.

A discussion was held regarding a side entry garage. Mr. Ward advised they are not requesting a waiver and any new home would have to comply with the Ordinance.

Mr. Berson indicated he feels this is similar to a recent application that similarly tried to request a subdivision for smaller lots. He feels they have to follow the intent of the zone.

Board members issued concern with the lot circle diameter variance.

Chairman Mercus opened the hearing to members of the public for questions of the testimony given.

Maryann Stoya, 136 New Monmouth Road, was sworn in and advised she lives adjacent to the subject lot. Ms. Stoya asked several questions regarding the construction of the new home and whether she would be compensated for having the construction so close to her home.

Mr. Banasiak indicated he is not comfortable moving forward without the home plans. Mr. Gorman explained this is common practice to apply for a subdivision before planning the home to be built. If not variances are requested at the time of subdivision, it is understood that the new home would have to comply with the zone requirements or they would have to go to the Zoning Board for relief.

Chairman Mercus opened the hearing to members of the public who wish to make a comment.

Maryann Stoya, previously sworn, advised that she lives next door and recently purchased this home under the impression the previous application did not go through. She offered additional comments indicated she is not in favor of the application.

Seeing no further members of the public wishing to speak, the public hearing was closed.

Committeeman Settembrino advised that he appreciates the aerial exhibit, however the average frontage in that area is 100 feet. The new development in that area meets the criteria of the Ordinance.

MR. RATHJEN OFFERED A MOTION TO DENY THE APPLICATION, SECONDED BY MR. BERSON.

Roll Call:

Ayes: Mercus, Rathjen, Settembrino, Berson, Colangelo, Schweizer, Eteson, Banasiak

Nays: None

#2018-203, Seth Beller Trust, Block 807, Lot 1.02, 1230 Highway 35, Application for Major Site Plan and minor Subdivision Approval with Variances – Steven Nehmad, Esq. appeared on behalf of the applicant and noted that this is a continued hearing for a Wawa convenience store with associated fuel pumps and canopy. The Board has previously heard testimony from the site engineer, the traffic engineer and the representative from Wawa. They have revised the plans since the last hearing to show a modified lighting plan, reducing the intensity of the lights and adjusting the color of the lights.

Jim Kennedy, P.E., remained under oath from the previous hearing. Mr. Kennedy testified that they have made a change to the lighting plan, based on public input received at the previous hearings. In working with Wawa's design team, they were able to reduce the intensity of the site lighting. The lighting in the rear of the building, closest to the adjacent neighbors, has been reduced by 71% and still meets the Ordinance requirements and safety standards. The canopy area lighting has been reduced by 37%. The overall average lighting has been reduced by 29%. The lighting under the canopy is regulated by OSHA, for safety reasons associated with employees exchanging money. The color temperature of the lighting has also been reduced to 4000 Kelvin, which is a substantial color temperature reduction. The color temperature matches the lighting used at the CVS next door. The new lighting plan has been reviewed by T&M Associates and the applicant will provide all required information and will comply with most comments. A design waiver is required for not meeting the "uniform" lighting requirement. With the lighting reduced, they average to minimum ration increases and triggers the need for the waiver.

Mr. Banasiak asked for clarification on foot candle measurements, which was answered by Mr. Kennedy. For example, the lighting on the Board member dais is approximately 10 foot candles while natural

moonlight is about one tenth of a foot candle. A standard streetlight is about 10-to-15-foot candles. A discussion regarding foot candles was held. Committeeman Settembrino clarified that the reflectance would be reduced due to the reduced intensity of the lighting. Mr. Kennedy confirmed that is correct.

Mr. Rathjen advised he would prefer to see a Wawa directional sign at the first drive entrance. Mr. Kennedy advised the applicant is willing to install, if that is what the Board directs them to do. They have also agreed to a one-way drive aisle in front of the office building.

Paul Phillips, P.P. of Phillips, Preiss & Grygiel, was sworn in and accepted as an expert Planner. He advised he has worked on over two dozen Wawas within the State and is familiar with the site plan application. He summarized the proposal for a subdivision for two conforming lots, one to contain the Wawa and Office building and the second lot to be deeded as a conservation area. The proposed use is permitted in the B-3 zone and all bulk standards have all been met or exceeded. A variance is required for the proposed signage, although not significant, granting same can be justified under the C-2 hardship criteria. They have a proposed façade sign on the building, two Wawa signs on the canopy and two spanner signs under the canopy and above the fuel pumps. One façade sign is permitted, but in this case they are requesting four. This design is more fitting to the multiple structures on the site and does stay within the 10% threshold. This is a common request for this type of proposal. The applicant is proposing a freestanding sign of 20 feet, where 12 feet is permitted. There are State Laws that regulate the placements of the "price per gallon" at gas stations and the proposed freestanding sign would allow for the price to be within a driver's cone of vision. The sign at CVS and Chase next door is at 20 feet as well. As the traffic engineer had previously testified, most customers will be generated by pass-by traffic and given the existing highway vegetation, the 20 foot sign as designed provides a better traffic safety alternative. The benefits of enhanced visibility and safe traffic flow, outweighs any detriment. He feels this plan advances purposes A & H of the Municipal Land Use Law.

Mr. Phillips added that a variance had originally been sought for minimum floor area ratio, however the ordinance does not limit restrict the calculations to just one building so between the Wawa and the existing office building, the applicant now complies. The preservation of the 9-acre lot as a buffer to the residential neighbors is a significant benefit and serves as a highly effective buffer between the two uses. This further advances the purposes of the Municipal Land Use Law in that it provides for conservation of environmental areas. The b-3 zone requires a 75-foot buffer to the residential zone and this plan provides at least 200 feet of buffer area. In his opinion, the variances requested can be granted with no detriment or negative impact. The design waivers being requested are reasonable and can be granted.

Ms. Citrano questioned the size of the existing Two River Bank sign. Mr. Kennedy advised it is setback 26.65 feet, where 25 feet is required. It is 14.8 feet high, where 12 feet is permitted and the area is at 51.61 square feet. Ms. Citrano questioned how the 26 foot setback will be visible for drivers based on the testimony provided for the proposed Wawa sign. Mr. Phillips advised that the office building traffic will be destination traffic, where Wawa is mostly pass-by traffic. The Wawa sign is also driven by the State regulations related to visibility of gas prices.

Ms. Citrano reminded the Board that the CVS and Chase Bank share one freestanding sign and is similar in size and location to the proposed Wawa sign. Ms. Citrano further noted a variance is necessary for minimum floor area ratio. While the two buildings meet the minimum FAR, a variance had been granted for the minimum floor area ratio during the CVS And Chase applications. She is not asking for larger buildings, just consistency when granting relief. Mr. Phillips advised that it is a diminutive request and the applicant meets the intent of the Ordinance.

Chairman Merces opened the hearing to members of the public for questions of the testimony presented.

Ron Fay, The Trail, asked for clarification on the purposes of the Municipal Land Use Law as well as questions related to the freestanding sign and traffic visibility. He further asked questions related to the deliveries expected on site.

Eric Dunn, 5 The Trail, asked for clarification on the reduced lighting plan. He indicated concern with the site not being safely lit.

Mr. Nehmad reminded the Board the applicant was not required to reduce the lighting, they did so in an attempt to meet the concerns of the neighbors and to be a good neighbor.

Chairman Merces opened the hearing to members of the public for comments on the application.

Andy Muniz, 6 The Trail, was previously sworn, and advised he has lived there for 20 years and cannot enjoy time in his yard without the cops being called on him, he wonders how a Wawa can go up in his backyard and operate for 24 hours a day. He lives in a historic area with a Church up the road and now a Wawa in his backyard. It is not a Friendly's that closes at 10 pm and he feels the Wawa is not a proper use of the site.

Ron Fay, 11 The Trail, remained under oath and referred to recent accident that he feels was caused by sun glare in that area. HE has concerns with the flow of traffic leaving The Trail and Highway traffic entering the site. He has further concerns with tractor trailers existing sites and blocking the traffic on Route 35. Mr. Fay hopes the Board considers everyone's safety.

Eric Dunn, 5 The Trail, remained under oath and offered comments indicating concern with safety and well being of residents of The Trail and The Terrace, as he feels those streets will be used as a "cut-through." He has concerns related to traffic safety and pedestrian safety with the reduced illumination levels. He suggested the applicant build on another site up the road. He offered further comments indicating he is not in favor of the application.

Committeeman Settembrino commended the applicant for making the applications as insular as possible and asked if there was any consideration to a restriction on operating hours. Mr. Nehmad advised that Wawa has a 24-hour policy to address the needs of shift workers, first responders and other customer needs. They hours cannot be restricted by the Ordinance. He reminded the Board of the enhanced buffer provided. Mr. Settembrino advised he understands but wanted to ask.

Mr. Rathjen advised that he has done some research on Wawa and he was impressed to see they hire a lot of younger employees and encourage the growth of the local workers. Mr. Nehmad added that 45% of the company is owned by its employees through a Employee Stock Program and they are a wonderful company to be employed by.

Mr. Nehmad added that he understands change is hard, but this property is zoned for this use, and it meets the Stie Plan standards, as testified to. The applicant is providing a safe ingress and egress, all of which has been approved by the outside agencies that hold jurisdiction over those roadways. As the Board knows, the traffic generated by an approved use cannot be considered. The applicant has testified that the figure 8 design works well and the stie design has evolved over time to meet the needs of both Wawa and the customers. The proposed conservation easement provides a significantly enhanced buffer to the residential neighbors and supplemental plantings area being added along the retaining wall. This is a unique opportunity for a good commercial citizen within the Township and he asks that the Board act favorably on this application.

MR. RATHJEN OFFERED A MOTION TO APPROVE THE APPLICATION, WITH A REQUEST FOR A WAWA DIRECTIONAL SIGN AT THE FIRST ENTRANCE AND A ONE-WAY DRIVE AISLE IN FRONT OF THE OFFICE BUILDING, ALONG WITH OTHER CONDITIONS DISCUSSED DURING TESTIMONY. THIS MOTION WAS SECONDED BY MR. BERSON.

Roll Call:

Ayes: Mercedes, Rathjen, Settembrino, Berson, Rentschler, Colangelo, Schweizer, Eteson, Banasiak

Nays: None

NEW BUSINESS

None

ADJOURNMENT

MR. SCHWEIZER OFFERED A MOTION TO ADJOURN THE MEETING AT 9:21 PM, SECONDED BY MR. COLANGELO. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:


Erin Uriarte,
Board Secretary