

TOWNSHIP OF MIDDLETOWN

Planning Board
One Kings Highway
Middletown, NJ 07748-2504

DAVID MERCES
Chairman



Organized December 14, 1667
"Pride in Middletown"

SANYOGITA S. CHAVAN, P.P., A.I.C.P.
Director of Planning

ERIN URIARTE
Planning Board Secretary

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PLANNING BOARD MEETING MINUTES FEBRUARY 3, 2021

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 3, 2021.

The Board Attorney read a statement to advise the notice requirements provided for the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Independent, the Star Ledger and the Two River Times and by posting at the Middletown Township Municipal Building and filing with the Township Clerk on January 9, 2020.

To ensure the health and safety of our residents during the COVID-19 pandemic, Middletown Township Planning Board changed the format to a virtual meeting, via WebEx. The Middletown Planning Board notified the Independent, the Star Ledger and the Two River Times of the Meeting Change on December 15, 2020. All notification was given pursuant to the Open Public Meetings Act at least 48 hours prior to this meeting.

All members of the public will be muted upon joining the meeting and must remain muted until you are acknowledged during the public comment portion of the public hearing. Only the meeting organizer will "unmute/mute" a participant and/or attendee. After you are unmuted, you may also have to unmute yourself by clicking on the mute/unmute microphone icon on the bottom left of your Webex screen. If you wish to appear by video as well as audio, you must click on the video icon of your Webex screen. Please note video is required for sworn testimony/comments.

In order to participate in the public comment portion of the hearing, you must click on the "Raise Hand" icon in the Webex App. Dial-in users will be unmuted and given a chance to speak, you will hear a "beep" when you are unmuted, please state if you wish to speak. To participate in public comment, you must state your name and address for the record. Sworn testimony must be made by video. You will be unmuted or acknowledged by the meeting organizer when it is your turn to comment. The "Chat" feature should only be used to indicate your desire to participate in the public comment portion of the meeting or technical difficulties, and not for public comment.

Roll call was taken with the following members present via WebEx: Mr. Mercas, Mr. Rathjen, Committeeman Settembrino, Mr. Berson, Mr. Rentschler, Mr. Colangelo, Mr. Schwiezer, Mr. AmecAngelo, Ms. Eteson, Mr. Banasiak

Also present via WebEx: James Gorman, Board Attorney; Sanyogita Chavan Board Planner; Erin Uriarte, Board Secretary; Rob Harris, MIS; Thomas Incorvaia, Assistant Planner

A salute to the flag followed.

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

The Board Secretary read the agenda. At this time, Mr. Gorman swore in the following members for their newly appointed terms: Roseann Eteson, Class IV member; John Rentschler, Class II member; Jay Banasiak, Alternate #1.

APPROVAL OF MINUTES

JANUARY 13, 2021 – MR. RATHJEN OFFERED A MOTION TO APPROVE THE MINUTES OF JANUARY 13, 2021, SECONDED BY MR. MERCES. ALL PRESENT, ELIGIBLE MEMBERS VOTED IN FAVOR BY VOICE VOTE.

RESOLUTIONS

None

ADMINISTRATIVE MATTERS

Payment of Vouchers – Chairman Mercus advised this will be carried to the next meeting.

OLD BUSINESS

None

NEW BUSINESS

Chairman Mercus advised he will be taking the minor subdivision first as it is a smaller application. The Board gave the applicant a few minutes to work out technical difficulties with Mr. Harris.

#2020-101, King, 29 Broadway, Block 279, Lot 5, Application for Minor Subdivision – Mr. Gorman explained there is no notice required as this is a conforming subdivision request. The applicant, Donna King was sworn in and explain she is seeking approval to subdivide her existing lot into two lots. Proposed lot 5.01 contains the existing single family home, driveway and patio area; no new home is proposed for the new lot at this time and no Variance relief is being requested.

Ms. Chavan explained the existing lot is oversized for the zone and the applicant is proposing two lots that are twice as large as what is required. She would like to see the plan revised to show the trees and as a condition of any approval, the applicant will have to get a well engineered plan. Ms. King agreed. Ms. Chavan reminded Ms. King that any new home will be subject to grading plan review and construction permits. A discussion regarding sidewalks was held and a contribution to the sidewalk fund will be made in lieu of installing sidewalks as well.

Mr. Keady requested 4 additional trees be planted and Ms. King agreed. She further advised she will be filing by deed.

MR. SCHWIEZER OFFERED A MOTION TO APPROVE THE APPLICATION, SECONDED BY MR. COLANGELO.

Roll Call:

Ayes: Mercus, Rathjen, Settembrino, Berson, Rentschler, Colangelo, Schwiezer, AmecAngelo, Eteson

Nays: None

#2019-402, RJJ Group LLC, Block 638, Los 192 & 194, 451 Kings Highway East/630 East Road, Application for Major Subdivision Approval – Mr. Gorman advised the notices are in order and the Board has jurisdiction to hear this matter.

Rick Brodsky, Esq., appeared on behalf of the applicant. The applicant is proposing to subdivide two existing lots into eight lots containing seven single family homes and an eighth lot which will be undevelopable with environmental restrictions. There are two sections to the subdivision, one portion will be a five lot cul-de-sac accessible from Kings Highway East and the second portion will be two residential lots accessible from a shared driveway off of East Road. There are several variances associated with this subdivision request that the professionals will get into.

James Kennedy, P.E. and Andrew Kaiser, Applicant, were sworn in.

Mr. Kennedy gave his credentials and was accepted as an expert engineer and planner. A colored aerial exhibit was marked as Exhibit A-1. Mr. Kennedy explained the two portions of the subdivision, noting that the entire tract is close to 38 acres and 21 are proposed to remain natural. There are 4,700 trees to be saved within those 21 acres. There are extensive wetlands on the site, which will be delineated by the DEP. The 5 lot portion off of Kings Highway East will be all conforming lots accessed by a cul-de-sac which has been designed to RSIS standards. The existing homestead on proposed lot 192.05 to be demolished. A lot shape circle diameter variance is required for lot 192.02. The design meets the intent of the ordinance, which is to prevent irregular shaped lots. This design allows for neighboring lot 192.04 to have a bigger yard. An alternate plan has been submitted to show that they can conform, however Mr. Kennedy feels that due to the unique topography of the parcel, this is a much better design. Utilities are available and will be extended along the cul-de-sac. A sewer easement will run through the 21 acre parcel for service to the two lot portion. An above ground detention basin will be installed to mitigate peak run-off, as well as a Stormwater Quality Unit. A waiver is being requested to install trees behind the sidewalk in order to minimize root impact on the sidewalks. Lighting will be done with colonial fixtures that will meet ordinance requirements. A Homeowner's Association will be formed by the 5 parcels along the cul-de-sac in order to maintain the detention basin and the cul-de-sac will be dedicated to the township.

Ms. Eteson asked if there has been any consideration given to saving the existing home. Mr. Kennedy replied yes, however a rear yard setback variance would then be required due to the new lot line being proposed in the rear of the home. It is something the applicant can look at though. Sheet 5 of 21 in the plan set shows the location of the existing home and gravel driveway area. Mr. Rathjen agreed the home is historic and has a beautiful ballroom; he would love to see the home saved.

Mr. Brodsky advised that the applicant is quite fond of the home as well. Saving it would create another variance situation, but if the Board is inclined to grant that variance, they can certainly look at it.

Ms. Eteson suggested the new homes match the existing home. Mr. Brodsky advised that might not work as the new homes are proposed to be more modern in design, but he can assure that they will be designed to co-exist.

A discussion was held regarding the existing home, which is currently occupied. Chairman Mercas asked what would be the intent of saving the existing home. Mr. Brodsky advised at this time they are not sure, possibly a rental or a resell. Mr. Kennedy explained that reconfiguring the driveway to come in off of the cul-de-sac rather than off Kings Highway East could remove the need for a variance. He feels with that redesign, the side-yard would become the front yard and the rear yard would then be a side yard, however Ms. Chavan disagreed and advised it would still be a rear yard. Board members indicated concern with the proximity of the existing home to the new homes and the age of the home.

Mr. Banasiak indicated concern with the basin maintenance should the HOA become defunct in the future. Mr. Kennedy explained the Township enforcement provisions laid out in the Ordinance as well and the DEP enforcement branch. The HOA is a legal entity and if a home becomes foreclosed, the bank would then be responsible for the HOA fees. The Township would be able to file municipal action against the HOA should there be an issue, however the applicant does not see that happening. Mr. Brodsky further advised that the HOA will be fully documented, all property owners will be notified of their responsibility. Years ago the ball had dropped but provisions are now in place to prevent that from happening. The Township's Ordinance lays out property maintenance obligations which gives them legal authority to impose sanctions and fines. That is not how the applicant anticipates it will go, especially since these will be high end homes and that in itself will drive the incentive to maintain the basin. Mr. Kennedy added that some towns provide for a sinking fund to be established for basin maintenance however Middletown has not adopted that ordinance and relies solely on the property maintenance ordinance. Ms. Chavan advised the Township will be introducing new rules.

Board members indicated concern with this application being not much like another recent application made by the same professionals for another developer. There is concern amongst the Board with an HOA going defunct and the basin not being maintained.

Mr. Gorman questioned who will retain the 21 acre parcel that is to remain natural. Mr. Brodsky advised the applicant will retain ownership, there is no conservation easement proposed as DEP may require some walking trails or something similar.

Mr. Schwiezer questioned the roadway width of the cul-de-sac. Mr. Kennedy replied that it is twenty-eight feet wide and they meet the Residential Site Improvement Standards for roadway width.

Mr. Keady asked if the drainage pipes will fall under the HOA maintenance agreement. Mr. Kennedy replied that the pipes within the right-of-way will be dedicated to the Township and outside of the ROW will be through the HOA.

Committeeman Settembrino asked for clarification on steep slope areas. Mr. Kennedy explained there is no ability to provide sanitary sewer without closing a slope area.

Mr. Berson asked for more information on the second stormwater facility they are proposing. Mr. Kennedy explained that it is a Stormwater Quality Unit and will serve, essentially, as a big Brita filter. The geotechnical analysis done on the soils is not conducive for infiltration or groundwater recharge. They will need a waiver due to the poor soils.

Chairman Mercas asked if there is any liability to the homeowner with having these systems in their yards. Mr. Brodsky advised there is an indemnification clause in place and the basin area will be fenced. Mr. Kennedy added that this design ensures that a homeowner will remind the Association of the maintenance responsibilities as they arise. Another location would have caused more tree clearing and may have affected the buffer area.

Board members asked for clarification on several design standards and issued concerns with the HOA not forming. Mr. Brodsky advised that the formation of an HOA can be a condition of any approval. Once it is on record, the Township will then be able to enforce maintenance. The HOA rules will be recorded with the deed so any potential homeowner will be made aware when they run a title search.

Mr. Gorman agreed once it is formed, it will have to carry over to future beneficiaries. He reiterated the Board's concern in that over the last 40 years, not all HOA's have remained in tact. Mr. Brodsky advised the property owners will be driven to maintain the basin as it impacts their own home values. The development across the street has a similar HOA for their basin. Also there is added protection in that the individual homeowner will encourage the HOA to keep up with maintenance obligations. The proposed design is consistent with RSIS standards, which are used by most subdivisions in the area, and it will reduced run-off into the wetlands area. Enforcement mechanisms and natural incentives are in place to make this work.

Mr. Kennedy moved on to the two lot section of the development. The proposed lots are both substantially oversized for the zone and will be accessed by a shared driveway. The shared driveway design provides for limited clearance on the lots due to wetlands and critical areas. A variance for lot frontage will be required, however they are minimizing the impact by proposed the shared access drive. They will preserving the existing vegetation along the roadway however no buffer is proposed. There will be no HOA formed for these two lots, however an easement will be in place for maintenance by either party. Each lot will be responsible for the maintenance of the system. The design here is similar to that of a minor subdivision. He noted that the applicant looked at many designs for this property, including larger homes and townhomes, however this design is more market driven and more in conformance with RSIS standards.

Committeeman Settembrino suggested they remove these two lots from the plan, he feels like they are being shoe-horned in. Mr. Kennedy advised that is not out of character based on the home spacing across the street on East Road. Mr. Settembrino stated that the single penetration of the wetlands shows that the applicant is really trying to make it work and he is not comfortable with that.

Board Members offered concerns with useable yard areas and alternate stormwater designs. Ms. Chavan suggested reduction in the home size. Mr. Brodsky advised the applicant will take a look at the design of the plan to address Board members concerns. He clarified that the applicant would like to request the variance to keep the home, however if the variance cannot be granted they will have to demolish the home. The applicant would like to reserve the option to keep or demolish. Mr. AmecAngelo suggested the applicant submit a concept plan with the existing home and that he feels it should have access to Road A.

Mr. Gorman announced this application is being carried to April 7, 2021, no further notice will be required. The Agenda will be posted 48 hours prior to the meeting and will contain the new WebEx link.

ADJOURNMENT

MR. RATHJEN OFFERED A MOTION TO ADJOURN THE MEETING AT 9:10 PM, SECONDED BY MS. ETESON. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte,
Board Secretary