

# TOWNSHIP OF MIDDLETOWN

## Zoning Board of Adjustment and Appeals

One Kings Highway  
Middletown, NJ 07748-2504

JAMES HINCKLEY  
Chairman



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Director of Planning

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### ZONING BOARD MEETING MINUTES FEBRUARY 28, 2022

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 February 28, 2022.

Chairman Hinckley called the meeting to order and read a statement of compliance with the Open Public Meetings Act. The Middletown Zoning Board notified the Independent, the Asbury Park Press and the Two River Times on February 3, 2022. Notice of the meeting was filed with the Township Clerk and posted in Town Hall on February 3, 2022. 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 (arrived at 7:04 pm), Mr. Truscott, Mr. Hinckley, Mr. Hibell, Mr. Bane, Mrs. Rogers, Mrs. Sheridan, Mr. Bruncati

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

Absent: None

A Salute to the Flag followed.

Mr. Vella announced for the public that the following applications would not be heard:

**#2021-013, Almost Home Market, Inc., Block 1049, Lot 1, 276 Sunnyside Road, Application for Pre-Existing Non-Conforming Use** – This application is carried to March 28, 2022, at 7:00 pm at Town Hall. The applicant will issue new notice.

#### APPROVAL OF MINUTES

**January 24, 2022** – MR. WREDE OFFERED A MOTION TO APPROVE THE MINUTES, SECONDED BY MR. HIBELL.

Roll Call:

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

Nays: None

#### APPROVAL OF RESOLUTIONS

**#2021-017, Daniel & Nicole Nagle, Block 840.01, Lot 12, 669 Locust Point Road, Resolution Granting Bulk Variance Approval** – MR. WREDE OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. HIBELL.

Roll Call:

#### **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

Ayes: Wrede, Hinckley, Truscott, Hibell, Bane, Rogers  
Nays: None

### **ADMINISTRATIVE MATTERS**

**Payment of Vouchers** – Ms. Uriarte advised there are no vouchers this month.

### **OLD BUSINESS** – None

Chairman Hinckley advised he will be taking the applications out of order to get the smaller ones done first.

### **NEW BUSINESS**

**#2021-108, Edward Trujillo, Block 561, Lot 2, 9 Raphael Avenue, Application for Bulk Variance** – Mr. Trujillo advised his professionals were not all present. Mr. Hinckley asked that he start the presentation and do as much as he can without them.

Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. A Variance Plan/Grading Plan, consisting of two sheets, prepared by East Point Engineering, LLC, dated August 18, 2021, was marked as Exhibit A-1. A Proposed Renovation and Addition Plan for 9 Raphael Avenue, consisting of four sheets, dated June 25, 2021, was marked as Exhibit A-2. A Final as Built Survey, consisting of one sheet, prepared by Thomas M. Ernst, dated April 23, 2021, last revised June 9, 2021, was marked as Exhibit A-3. The technical memo of the Township Planner was marked as Exhibit ZB-1.

Edward Trujillo was sworn in as the applicant. Mr. Hinckley advised that all testimony must be land use related.

Mr. Trujillo advised he purchased the home last year and it needs a lot of work. Rather than tear the home down and build a new one, he has decided to invest in the renovation and expansion of the existing home. He currently lives in a neighboring municipality and would love to be a part of the Middletown community. He feels granting the variance relief would help the home be more complementary of the character of the neighborhood. Many homes on the block currently have a narrow distance from structure to structure. An aerial photo of the area with distances between homes was marked as Exhibit A-4.

Marc Leber, P.E., was sworn in and accepted as an expert Engineer and Planner. He described the property location and dimensions, noting there are several pre-existing non-conformities associated with this property. Front -yard setback: 32.49' exists where 40' minimum is required. Side-yard setback (eastern): 14.6' exists where 30' minimum is required. Buildable lot area: 14,557 square feet exists where 15,000 square feet minimum is required. Lot area: 14,557 square feet exists where 21,875 square feet minimum is required. Lot frontage: 100' exists where 125 minimum is required. Circle diameter: 60' exists where 77' minimum is required.

Mr. Leber explained the applicant is proposing an addition to the garage with a front entry garage, which will require a design waiver. The applicant is also seeking variances for side yard and front yard setbacks. Ms. Citrano advised no front yard setback will be required, as the Ordinance allows for a continuation of the existing setback.

A tax map sheet of the surrounding area was marked as Exhibit A-6. Mr. Leber explained that all the yellow lots on the sheet are non-conforming. He indicated this property may be in the R-22 zone but it fits the R-15 zone requirements, which would allow for a 15-foot setback, and they are proposing 11 feet. A non-conforming setback exhibit showing setbacks of less than 20 feet, was marked as Exhibit A-7. Mr. Leber referred to the Master Plan language that suggests the need for infill development. Ms. Citrano clarified that the Master Plan states it "could be" an opportunity for infill development. She

further clarified that the Ordinance allows for the application of the R-10 zone standards for coverage only.

Mr. Leber continued that the proposed plan has no detrimental impact on the neighborhood and does bring positive benefits by renovating a home that has been vacant and in need of repair.

Mr. Trujillo referred to Exhibit A-4, which shows the structure-to-structure measurement, to show the character of the neighborhood.

Mrs. Bouw confirmed there is a pre-existing pattern in the neighborhood however there is a requirement for a side-facing garage. Mr. Trujillo advised he would like to wait for his Architect to arrive to discuss this waiver request.

At this time, Chairman Hinckley called the next application.

**#2021-015, Kenneth & Lauren Aravich, Block 962, Lot 14, 385 Highway 35, Application for Use Variance and Minor Site Plan Approval** – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. A Minor Site Plan, consisting of four sheets, prepared by East Point Engineering, LLC, dated March 26, 2021, was marked as Exhibit A-1. The Proposed Interior Partitions for Garage to Office Conversion for 385 Route 35, consisting of two sheets, prepared by M3 Architecture LLC, dated May 26, 2021, were marked as Exhibit A-2. The Technical Report from the Township Planner was marked as Exhibit ZB-1. The Board Engineer review memo was marked as Exhibit ZB-2.

Rick Brodsky, Esq., appeared on behalf of the applicant. The property is located in the B-3 zone. They are seeking Minor Site Plan approval with D and C Variances to permit a residential structure with a garage to be partially converted to a medical use. The applicant had originally sought a pre-existing non-conforming use certification for a two-family home on the property, however they have withdrawn the 2-family use request and are now proposing a single-family home with a 1,000 square foot garage conversion.

Lauren Aravich was sworn in as the applicant. Ms. Aravich testified that she is a life-long resident of Middletown, however she does not live at the site. She has 6 children ranging from ages 11 to 25 and two children have special needs. Ms. Aravich is a Psychiatric Nurse Practitioner with a private practice treating patients for diagnoses such as depression, anxiety, and bi-polar disorder. Most of the visits are done virtually, however she needs her own office space for privacy reasons. As we come out of the pandemic, she expects about 75-80% to stay virtual but some will come back for office visits. She would like an office space for herself and her office manager, who happens to be her son. Right now they operate Tuesday through Thursday, 9:00 am to 5:30 pm however they are hopeful to expand to Monday through Friday. They expect 2-3 employees. Ms. Aravich added that they had done an extensive cleanout of the site upon purchasing. Landscaping was added, a new roof and solar panels were also installed.

Mr. Wrede indicated concern with the garage structure appearing to be two structures joined together. Mrs. Aravich confirmed it is one structure, however the back of the garage is clearly newer; she does not know the history of the garage.

Board Members indicated concern with the driveway onto Walnut Avenue. Mrs. Aravich advised it was already there. Mr. Brodsky explained that the driveway is not necessary for the use, however this use is much less intense than the plumbing use that previously existed. Mr. Vella suggested conditions that could be imposed to address the Board Member concerns.

Mrs. Rogers asked who will be parking in the garage. Mrs. Aravich advised it will be her or the tenants, which will be her older children.

Mr. Hinckley advised this is a unique property, it is the only B-3 to go all the way through to Walnut. He would like to see a less intense use than a plumbing business.

A discussion was held regarding possible conditions to limit intensity. Mr. Vella suggested limiting the number of exam rooms. Mr. Brodsky added they could impose limits on number of practitioners, employees, etc.

Ms. Citrano asked for clarification on the residence. Mrs. Aravich advised there are three bedrooms in total and two full bathrooms. Ms. Citrano asked about refuse pick-up. Mrs. Aravich advised she is not using the property yet, so she is not sure. Ms. Citrano asked if signage is proposed. Mrs. Aravich advised yes; they will be adding a sign on the highway; it is not shown on the plans but will conform to Ordinance standards.

Mr. Hoder clarified there will be no entrance between the garage and the office space. Mrs. Aravich advised that is correct. Mr. Hoder asked that she review the floor plan and uses of each space. Mrs. Aravich advised there will be 1 exam room with 1 storage room. She will have an office, as will the medical biller. Mr. Wrede indicated concern with seeing seven rooms, dual entrances and two bathrooms. Mrs. Aravich explained the need for a break room and a private bathroom.

Marc Leber, P.E., was sworn in and accepted as an expert Engineer. He described the property location. A colored rendering of the site plan was marked as Exhibit A-3. He noted that the property contains an existing dwelling with a T-shaped garage. A gravel driveway exists off of Walnut and a paved driveway exists off of Route 35. The applicant is seeking a use variance to allow the existing residence to remain. The proposal does not meet the minimum floor area requirement of 5,000 square feet however the design fits the needs of the applicant. They are proposing a stone façade over the garage doors that face Route 35. The three-bedroom home will require 2 parking spaces, while the Office use would require 6.8 parking spaces, for a total of 9 required parking spaces. The applicant is providing eleven parking spaces, with two inside the garage. The proposed driveway width is 12 ft with an area for a car to pull over to let an oncoming car pass, although they do not expect that to occur. In regard to lighting, they are proposing downward directed building mounted LED lights. A fence is also proposed to separate the home from the garage/office use. A six-foot fence is also proposed along the side property line with a four-foot fence between the home and the office. If the Board wants a fence along the rear property line along Walnut, the applicant will do so.

Mr. Leber advised the applicant will comply with most of the comments. They are requesting parking waivers as sidewalks in the parking lot are not necessary for this type of use. They are also asking for waiver for sidewalks along the roadway and will make a contribution in lieu of providing. Mr. Hoder suggests sidewalks from the ADA spaces to the building. Mr. Leber advised he will take a look at that. A discussion was held regarding the topography of the side. Board members indicated concern with the narrow driveway coming off Route 35. Mr. Hoder confirmed if that becomes the only entrance, it would need improvements and would need DOT approval.

A discussion was held regarding the proposed signage, and it was determined a freestanding sign can be installed without variance relief being necessary. Mr. Hoder asked that landscaping and lighting calculations be submitted and suggested a trash enclosure area. Mr. Leber advised there is no loading zone needed so they are requested a waiver from that. He will provide the requested information from Mr. Hoder.

Christine Nazarro-Cofone, P.P. was sworn in and accepted as an expert Planner. Ms. Cofone explained the documents reviewed for her part of the application. She described the site location and layout, noting that the residential use is not permitted in the zone. The site is suitable as this is a low intense use. There is adequate parking to show the site can fully support the use. The benefits of granting the variance outweigh any detriment. She understands there are concerns with the Walnut Avenue access and now would be the time for the Board to address that by closing off the access to the residential community. This presents a good planning opportunity for the Board. The applicant has made substantial effort to clean up this site. The adaptive reuse of the existing buildings is a better plan than a total knock-down with a brand-new office building proposed.

Ms. Citrano questioned the impact of keeping a home in the B-3 zone. Ms. Cofone replied that there would be no substantial impact, as it currently exists and there is substantial parking available. Ms. Citrano asked for testimony regarding the landscape buffer variance being requested. Ms. Cofone explained the relief requested is driven by the dual frontages on an undersized site.

Mr. Hibell indicated concern with one access for emergency access purposes. Mr. Vella noted Fire Department approval would be a condition of any approval.

Mr. Hinckley opened the hearing to members of the public.

George Rauge, 20 Walnut Avenue, indicated concern with the number of people using the driveway and lighting. Mr. Hoder explained the applicant will have to meet the zero-foot candle requirement at the property line. Mr. Brodsky advised the applicant will agree to placing the lights on a timer. Mr. Rauge advised he would like a four-foot fence at the rear property line. He further indicated concerns with run-off. Mr. Hoder explained this project does not trigger stormwater relief measures, however a buffer to the rear of the property could slow the velocity of run-off. Mr. Leber agreed to installing a swale. Mr. Wrede indicated concerns with the swale overflowing. Mr. Brodsky reminded the Board the lot coverage complies.

Kim Keator, 18 Walnut Avenue, was sworn in and indicated concern with the future of the site if this is approved. Three sheets of photos of the garage from Walnut Avenue was marked as O-1. There is a concern with headlights. A photo from Spring 2021 of the garage showing another company using the building a construction storage was marked as Exhibit O-2. She does not want to see this type of use out her front windows.

Claire Maguire, 14 Walnut Avenue, was sworn in and offered comments indicating concerns with access to Walnut Avenue and multiple tenants using the property. Mrs. Aravich advised she is using the garage for the storage of personal belongings. Members of the audience yelled out that it is a builder storing construction equipment. Mr. Vella advised that if the variances are granted those tenants will go away.

Mr. Brodsky reminded the Board the medical office is a permitted use in the zone.

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

Mrs. Bouw referred to old applications and wants to be certain this approval does not evolve into something more intense down the line.

Mr. Vella reviewed the conditions discussed during the hearing.

Mr. Wrede indicated he is very concerned with a dual use in a business zone. Mr. Hibell agreed. Mrs. Bouw agreed also and indicated concern with similar applications that have gone down the tubes post approval.

Mr. Hinckley added that he agrees, however the B-3 zoning should not go all the way through to Walnut Avenue. The improvements would make life better, but he is concerned with two uses in the Business Zone.

Mr. Truscott advised his concerns were addressed; he feels the applicant is doing a good job to protect the neighbors.

**MR. WREDE OFFERED A MOTION TO DENY THE APPLICATION, SECONDED BY MR. HIBELL.**

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Hibell, Rogers

Nays: Truscott, Bane

At this time, the Board took a five-minute break and returned 9:37 pm.

Mr. Hinckley advised they will not have time to hear all applications this evening; the application known as **#2021-016, Adam & Marisha Sirios, Block 770, Lot 4, 24 Witches Lane, Application for Planning & Bulk Variances**, will not be hearing this evening. Mr. Vella advised that this application is being carried to March 28, 2022, at 7:00 pm with no further notice required. This application will be heard under “old business.”

**#2021-108, Edward Trujillo, Block 561, Lot 2, continued** – Scott Nicholl was sworn in and accepted as an expert Architect. Mr. Nicholl noted that there are 7 – 8 homes with front facing garages in this area. In order to design a side facing garage, headlights would end up spilling onto the neighbor’s property while maneuvering the turn into the garage. There is also not enough room to install the pavement for a side-entry garage. The 22-foot-wide garage is adequate to fit two cars and allow doors to open on the vehicles.

Mr. Wrede advised he would feel more comfortable granting a 15-foot setback. Mr. Trujillo agreed to a 15-foot setback. Mr. Hinckley stated that he likes the approval as is.

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

Jeanine Mazzaro, 13 Alimar Drive, advised she lives behind the subject property and has no objection to the plan. She actually prefers this design as it would block headlights from shining on her home. The subject property has been vacant and needs improvement.

Frank Chalmers, 11 Raphael Place, advised he has been cutting the grass at this property for 20 years and would like to see a family in there. There will be no impact to his property.

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

Mrs. Bouw stated that she had driven by the site, and it does need some love. There are lots of pre-existing non-conformities in the neighborhood, so she sees no detriment in granting the variance. She appreciates the adjustment to 15 feet.

Mr. Vella noted the only condition would be regarding the adjustment to a 15-foot setback.

Mr. Truscott advised he had also visited the site and he feels the applicant did a great job illustrating the pattern of the pre-existing non-conformities in the area.

MR. HIBELL OFFERED A MOTION TO APPROVE THE APPLICATION, SECONDED BY MR. TRUSCOTT.

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

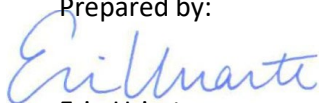
Nays: None

**EXECUTIVE SESSION** – None

**ADJOURNMENT**

MR. BANE OFFERED A MOTION TO ADJOURN THE MEETING AT 9:57 PM, SECONDED BY MR. WREDE. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte

Board Secretary