

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.
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ZONING BOARD MEETING MINUTES MAY 22, 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 May 22, 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, Mr. Barvels, Mr. Shanker

Absent: Mrs. Rogers, Mrs. Sheridan

Also present: Gregory Vella, Esq., Board Attorney; Amy H. Citrano, P.P., Township Planner; David Hoder, PE, Board Engineer; Erin Uriarte, Board Secretary

A Salute to the Flag followed.

APPROVAL OF MINUTES

April 24, 2023 – MR. HIBELL OFFERED A MOTION TO APPROVE THE MINUTES OF APRIL 24, 2023, SECONDED BY MR. BANE.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Hibell, Bane

Nays: None

APPROVAL OF RESOLUTIONS

#2022-008, Ignazio Giuffre, Block 885, Lot 15, 2 Browns Dock Road, Granting Bulk Variance Approval – MR. HIBELL OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. WREDE.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Hibell, Bane, Shanker

Nays: None

#2022-023, Jim & Stacy Dixson, Block 1063, Lot 24, 23 Seagull Lane, Granting Bulk Variance Approval – MRS. BOUW OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. HIBELL.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Hibell, Bane, Shanker

Nays: None

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

#2022-016, Chris Howarth, Block 638, Lot 257, 51 Tindall Road, Denying Application for Bulk Variance – MR. WREDE OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. HIBELL.

Roll Call:

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

Nays: None

2022-014, Richard Crist, Block 1062, Lot 6, 15 Storm Road, Acknowledging Withdrawal of Bulk Variance Application – MR. BANE OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. HIBELL.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Hibell, Bane, Shanker

Nays: None

ADMINISTRATIVE MATTERS

None

OLD BUSINESS –

Mr. Vella advised the following two applications will be carried to July 24, 2023 to allow for a draft parking ordinance to be prepared:

- **#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**

Board members indicated concern with the number of times this application has been carried. Mr. Hinckley advised the applicant must be ready to present one way or another, the Board will not accept any further excuses. Mr. Wrede suggested the applicant re-notice. Board Members agreed notice should be required.

Chairman Hinckley advised he will take the residential application ahead of the commercial application.

NEW BUSINESS

#2023-002, Bethany & Michael Smilovitch, Block 883, Lot 9, 589 Navesink River Road, Application for Bulk Variances – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. He further advised of the pre-marked exhibits.

Steven Schepis, Esq. appeared on behalf of the applicant. A copy of the CAFRA permits were submitted.

Mr. Hinckley advised he does not care what the property looks like – he would like to stick to the variance relief requested and is not interested in a long presentation.

Mr. Schepis explained that the applicant is proposing renovations to an existing single-family home, increasing the gross floor area of the dwelling from 2,744 square feet to 3,511 square feet. Two parts of the addition require a side yard setback variance, where 40' is the minimum required, and 32.9' (1 story and 190 sf) and 30.7' (2 story and 426 sf) is proposed from the

southwesterly property line. Additionally, the proposal requires a lot of coverage variance where 10% is the maximum permitted, and 14.4% is existing, and 15.5% is proposed.

Jeff Egarian, PE, was sworn in and accepted as an expert Engineer.

A copy of the NJDEP General Permit #* plan with highlights was marked as Exhibit A-4. Photos of the home were marked as Exhibit A-5.

Mr. Egarian explained the proposed plan, using the exhibit to indicate the location of the proposed improvements.

Ms. Citrano requested clarification on the lot coverage calculation – as the pool must be considered. The pool setback must also be measured to the water's edge.

Board members asked questions related to the riparian buffer and clarification as to what is driving the increase in coverage. The building addition is the cause of the lot coverage relief.

Daniel D'Agostino was sworn in and accepted as an expert Architect. Referring to Exhibit A-5, he described the existing two- story wood frame dwelling, noting the three areas for the proposed home addition. Landscaping will be added to mitigate any impact of the addition.

Mrs. Bouw questioned the square footage of the existing home, noting the real estate listing was different from the plans. Mr. D'Agostino advised he will look into it, but usually the listing is wrong.

A set of architect plans was marked as Exhibit A-8. The elevations were discussed. The façade will be made up of stucco and limestone.

Board members offered re-design options to bring the plan into conformity. Mr. D'Agostino advised that shifting will only take off about two feet and there is really no other place to put the additions based on the wetland restrictions. The applicant has received a transition area waiver from DEP for this proposal.

Mr. Egarian advised the lot coverage calculation is 15.6%

Mr. Hinckley opened the hearing to members of the public who wish to speak, however none appeared. Mr. Hibell offered a motion to close the public portion, seconded by Mr. Bane. All present members voted in favor by voice vote.

Mr. Schepis summarized the application, noting that the existing driveway is necessary for safety's sake and also drives the need for a lot coverage variances.

Board members offered comments indicating this fits within the existing pattern of development and will have no detriment on the zone plan.

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

Roll Call:

Ayes: WREDE, BOUW, HINCKLEY, TRUSCOTT, HIBELL, BANE, BARVELS, SHANKER,

Nays: None

OLD BUSINESS

#2023-019, HazaBell of Northeast, Block 605, Lots 62 & 63, 1580 Route 35, Application for Site Plan with Conditional Use Variance – Mr. Vella advised this is a continuation of a previous hearing.

Rick Brodksy, Esq. appeared on behalf of the applicant. A revised Preliminary and Final Major Site Plan prepared by Authur Kuyan, PE of Stonefield Engineering & Design, last revised 5/5/23 was marked as Exhibit A-12. A colorized rendering of the site plan was marked as Exhibit A-13.

Afton Savitz, PE, remained under oath and testified as to the changes that were driven by the report issued by Mr. Hoder for the previous hearing. They will be loading two times per week and the loading space is compliant. Landscaping has been added along the frontage to soften the view. The applicant has complied with and intends to comply with all comments in the Engineering report. The building height should be reflected at 26.2 feet, which is under the 35' requirement.

A discussion was held regarding the stacking lane for the drive-through. The ordinance requires 8 spaces and the applicant is providing 7 and will encroach on the pedestrian access to the trash enclosures.

Doug Pulynak was sworn in and accepted as a Traffic Expert. He noted that the ITE expects about 60 customer at the peak hour and they expect most to be pass-by traffic. He added that the DOT required the closure of the southern access drive, which has been shown on the plan. The access between Shoprite and the subject property will remain open.

John McDonough was sworn in and accepted as an expert Planner. He explained how he did his planning analysis, noting this site is currently underutilized. The fast-food restaurant is a permitted conditional use. The use will provide a service and jobs to the community and it is an adaptive re-use of the property, as banks are closing fast. The Wendy's drive-thru that is located within the 1500 feet is located at the far end of the neighboring Shoprite complex, with the mass of the grocery store serving as a buffer providing significant separation. This is a fully developed commercial area and this proposal will have no impact on the zone plan. The proposed used will provide access to affordable food options and will have an updated aesthetic compared to the bank that is existing. He feels the benefits outweigh any detriment, as this is an approved conditional use of the zone. The driveway relief is existing and the driveway quantity was changed as per DOT requirements. Front yard parking is consistent with the pattern of development in the area and currently exists on the property. The existing condition of the site is being improved. The freestanding sign is needed for safe and clear site identification. A variance is also required for sign quantity; three are proposed where one is permitted. Mr. McDonough feels they will facilitate wayfinding and site identification. The proposed lighting is above the ordinance requirements, however there are no residential uses nearby. Regarding street trees, they are short one tree on Magnolia and feel it would be overcrowding to meet the requirements; 13 trees are provided.

Board members indicated concern with the deficiency of space between this proposal and existing drive-thru restaurants. They were further concerned with varying from the conditions imposed on the use. Mr. Wrede feels the Committee put those conditions in place for a valid reason.

Mr. Vella questioned how the applicant justifies violating the setback requirement by 98%. Mr. McDonough explained the bank already exists with a drive-thru. Mr. Vella advised it is no longer existing if the proposal is to tear down the bank. Mr. Brodsky added that if you move the building back any further, there is an impact to the residential properties to the rear. He feels this is an adaptive reuse of an already developed parcel.

Mr. Vella noted that 50% landscaping is required, however only 2.9% is provided. Mr. McDonough advised the existing building could easily be retrofitted without touching landscaping at all. The applicant is providing significant plantings and repurposing the architecture. He feels this is a better planning alternative. Mr. Vella added that a retrofit would not be a fast-food restaurant and one of the conditions of the proposed use requires 50% landscaping.

Mr. Brodsky advised he disagrees that what is existing is irrelevant. Bank branches are no longer realistic; the world is changing.

Robert Delia was sworn in as a representative of Taco Bell. He advised they did look at other sites, but they were not feasible. There is no ability to move things back and it is more cost effective to demolish the building.

Mr. Truscott indicated concern with lot area not being met.

Mr. Hinckley stated that it is difficult to reconcile proposing a new use that will be more cars and a more intense use on a property that is too small for it. The Township Committee created these conditions for a reason, to prevent a cluster of drive-thrus. There are many other permitted uses that would be better alternatives for this site.

Mr. D'Agastino explained the role of the Zoning board. He feels the intent to avoid a cluster of drive-thrus has been met. Mr. Brodsky advised that not many businesses are chomping at the bit on other vacant sites. He feels the benefits outweigh any detriments.

Mr. Hinckley opened the hearing to members of the public who wish to speak, however none appeared. Mr. Wrede offered a motion to close the public hearing, seconded by Mr. Bane. All present members voted in favor by voice vote.

Mr. Vella advised it would be appropriate for the Board to make two motions; one for the D variance request and one for the site plan.

In regard to the D variance, Board members offered comments indicating they are concerned with the conditions not being met for the use, along with the significant amount of bulk variance relief required.

Mr. Shanker voiced concern with the property remaining vacant.

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

Roll Call:

Ayes: WREDE, BOUW, HINCKLEY, TRUSCOTT, HIBELL, BANE, BARVELS, SHANKER,

Nays: None

EXECUTIVE SESSION

Mr. Hibell offered a motion to enter into executive session to discuss pending litigation, seconded by Mrs. Bouw. All present members voted in favor by voice vote.

ADJOURNMENT

MRS. BOUW OFFERED A MOTION TO ENTER BACK INTO REGULAR SESSION AND ADJOURN THE MEETING AT 9:18 PM, SECONDED BY MR. HIBELL. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte

Board Secretary