

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

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Secretary

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ZONING BOARD MEETING MINUTES MAY 23, 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 May 23, 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, Mr. Hinckley, Mr. Hibell, Mr. Bane, Mr. Shanker, Mrs. Sheridan, Mr. Barvels

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

Absent: Mr. Truscott, Mrs. Rogers

A Salute to the Flag followed.

Chairman Hinckley welcomed Mr. Shanker to the Board. Mr. Vella noted that Mr. Shanker has been previously sworn.

APPROVAL OF MINUTES

April 25, 2022 – MR. HIBELL OFFERED A MOTION TO APPROVE THE MINUTES, SECONDED BY MR. WREDE.

Roll Call:

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

Nays: None

APPROVAL OF RESOLUTIONS

Mr. Vella explained the Resolutions scheduled for adoption will be carried to the following meeting.

ADMINISTRATIVE MATTERS

Payment of Vouchers – Mrs. Bouw offered a motion to approve the Payment of Vouchers, seconded by Mrs. Rogers. 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

#2021-013, Almost Home Market, Inc., Block 1049, Lot 1, 276 Sunnyside Road, Application for Pre-Existing Non-Conforming Use – Mr. Vella noted the applicant was unable to provide notice in accordance with Law. This application is being carried to June 27, 2022 with full notice to be sent.

#2021-016, Adam & Marisha Sirois, Block 770, Lot 4, 24 Witches Lane, Application for Planning & Bulk Variances – Mr. Vella advised this application was carried from the March meeting, where testimony had been given.

John Anderson, Esq. appeared on behalf of the applicants. Mr. Anderson requested confirmation that Mr. Shanker has listened the audio of the previous hearing and is eligible to vote. Mr. Vella confirmed same. Mr. Anderson summarized the previous hearing, noting that they had left off with their Architect, who remains under oath.

Mr. D'Angelo advised the level of disturbance will be limited to the area around the 3 concrete piers; he estimates it to be less than 5 square feet. Revised sheets, Z-3, Z-4, Z-7 & Z-8 from the Architectural drawings, dated May 20, 2022 were marked as Exhibit A-16. The exact grade is shown on sheet Z-7. The design will have no visual impact on the neighbors due to the large setbacks and heavy vegetation. There is significant distance between the neighboring structures and with a roadway that serves as an additional buffer.

Ronald Trinidad, previously sworn Land Surveyor, advised that he has done additional field measurements and it is approximately 259 feet to the neighbor's home.

Andrew Janiw, PP, was sworn in and accepted as an expert Planner. Mr. Janiw summarized the application and Township documents used to do his review. He described the subject property, noting that it is irregularly sized with multiple road frontages and significant steep slopes. The surface parking to access the home has been built on piers and the home was designed as an artist's loft in the 1970's, which is an awkward layout for a family. The proposal is to maintain the existing footprint and expand the home vertically. This is a unique home in a unique neighborhood that contains a variety of homes and styles. A Neighborhood Study prepared by Beacon Planning was marked as Exhibit A-17. The National Register of Historic Places, dated March 12, 2004 was marked as Exhibit A-18. A photo board of various viewpoints was marked as Exhibit A-19. Mr. Janiw explained the home appears to be a one-story home from Witches Lane. The view from Bayville shows heavy vegetation and the home can barely be seen, even in the winter. The photos of the neighborhood show varying styles of architecture and the aerial photo shows a meandering layout of homes showing that no view of the water will be affected. The applicant is working with the environment, the tree line and the community to ensure this home fits nicely into the area. A website real estate listing for 30 Bayview was marked as Exhibit A-20. A photo board with photos from the listing were marked as Exhibit A-21. Mr. Janiw noted that the listing is for a 7,400 square foot home and it appears from the roadway to be a three-story home, however from the rear it appears to be five levels. A picture from the listing shows an elevator with 5 levels. It is masked well from the roadway and is a similar use of topography. The subject property previously received an approval in the 1970's for substandard Floor Area and a front setback of 32 feet. A variance is required for the existing roadway width for which the home is located. Section 540-504A requires every principle

building to be built with frontage on an improved street, and Witches Lane does not comply to Township standards for roads. Use "D6" variance relief is required for the height of the home because the proposed height is more than 10% of the maximum building height permitted in the Residential (R-45) Zone. As per Section 540-908B4, the maximum building height is 2 ½ stories at 35 feet, and 3-stories and 44.9' is proposed. Bulk "C" variance relief is required for front yard setback for the principal building where 29.4 ft. is proposed, and 50 ft. is the minimum required. Mr. Janiw feels this proposal is consistent with the Master Plan in that it is providing a reinvestment of an existing awkward home. They are maintaining the bulk and the scale of the home. They have also received approvals from the Landmarks Commission and the Monmouth Hills Association. In expanding vertically rather than horizontally, the applicant is preserving the existing root system, avoiding the potential for landslides. They are maintaining the character of the neighborhood, with minimal disturbance and impact on neighbors. Any impact of the addition will be mitigated by the heavy vegetation. HE feels the benefits of granting the variance outweigh any detriment. The variances can easily be granted under the C-1 or C-2 criteria of the Municipal Land Use Law.

Mr. Hibell questioned the height of surrounding homes. Mr. Janiw advised they cannot do exact measurements without trespassing. Mr. Trinidad presented an exhibit showing distances between the subject home and 30 Bayview Terrace, which has the height of the front of the structure at 50 feet. The exact height cannot be measured without accessing the site.

Mrs. Bouw asked how many homes have more than two and a half stories. Mr. Janiw advised there are 7 homes, 6 are three-stories. Mrs. Bouw noted that it appears to be a pre-existing pattern.

A photo from 16 Park Avenue was marked as Exhibit A-23.

At this time, the Board took a brief recess and reconvened at 8:20 pm.

Mr. Hinckley opened the meeting to members of the public for questions of the witnesses.

G. Aaron James, Esq. appeared on his own behalf as well as that of a client. Mr. James presented several exhibits that were marked for identification purposes, however not marked for the record and asked several questions of Mr. D'Angelo. Several photos were presented to illustrate the eclectic nature of the area. Mr. Hinckley advised the Board is aware, he would like to keep this moving. Mr. James referred to case law that addresses the character of the homes around them. Mr. Vella disagreed that case law was not for style, it is in terms of variance relief. Mr. James disagreed and referred to further case law, from Jersey City. Mr. James feels this application will impact the character of Monmouth Hills. Mr. Vella explained the Landmarks Commission approval shows that it does meet the character of the area. Mr. James continued to ask questions of the applicant's architect and presented a portion of the architectural drawings. A discussion was held regarding the roof area that slightly expands over the deck areas. Mr. Anderson clarified the existing home received a variance for being undersized.

Mr. James asked several questions of the Land Surveyor, Mr. Trinidad regarding the measurements taken, compensation received and whether he had accessed 27 or 30 Bayview.

Mr. Trinidad confirmed he did not trespass on those properties. Mr. Anderson confirmed there were limitations on the scope of Mr. Trinidad's work due to being directed not to trespass.

Mr. James asked several questions of Mr. Janiw. He asked Mr. Janiw to read excerpts from the Historic Registry aloud. Several photos were presented, and Mr. James asked Mr. Janiw to describe the area around 30 Bayview. Mr. Janiw reiterated and maintained his previous testimony.

Mr. James asked several questions of Mr. Sirois. Mr. James presented the Monmouth Hills bylaws and began questioning the approval process from the Monmouth Hills Association. Mr. Vella advised the Board will not be discussing the validity of the Monmouth Hills approval. Mr. Hinckley confirmed the Board is not interested in personal interests; they are here to review land use facts. Mr. James advised the Board of the criteria for granting variances and indicated he feels as though they are not met. Mr. Hinckley explained hardships could include size, shape and/or topography. Mr. Anderson clarified the relief being sought.

Seeing no further public questions, Mr. Hinckley opened the hearing for the objecting attorney to present a witness.

Derek Debree spoke from the audience and stated that there are several members of the public who would like to speak and they are concerned with the objector dragging out the hearing. Mr. Hinckley explained the hearing process.

Mr. James called his first witness. Mitchell Nelson, 27 Bay View Terrace, was sworn in and advised he lives across the street and down the hill from the subject property. He has lived in Monmouth Hills for four and a half years and he loves the historic, secluded nature of the area. Mr. Nelson advised he is concerned with the accuracy of Exhibit A-18. Mr. Vella questioned Mr. Nelson's qualifications to make such a statement. Mr. Anderson objected and stated hearsay. Several pictures were presented to show Mr. Nelson's home as well as the view from his home. A photo illustrated what the subject property looks like at night, he can see the light emanating from their windows and if they add more windows, he will have to see more light coming through. He offered comments regarding the leaves not growing back until April. A recent wedding at the Waterwitch Club could not get a bus through the neighborhood; he doesn't feel construction equipment will fit. Mrs. Bouw advised how construction equipment arrives is not within the Board jurisdiction. Mr. Nelson disagreed and stated the Board should be concerned because it affects the historic nature of the homes.

Mr. Anderson asked several questions of Mr. Nelson. It was confirmed the proposed home addition does not obstruct any water views. A photo board of Mr. Nelson's home was marked as Exhibit A-24. Mr. Nelson confirmed there was a real estate listing when he considered selling his home. Mr. Anderson asked if there was any trouble with construction vehicles access Mr. Nelson's home and he indicated there were none.

Chairman Hinckley advised the Board has a 10:00 pm cut-off rule. This application is being carried to July 25, 2022 at 7:00 pm. There will be no further notice required. Mr. Vella confirmed all applicant witnesses have been cross-examined and do not have to come back.

NEW BUSINESS – None

EXECUTIVE SESSION – None

ADJOURNMENT

MRS. BOUW OFFERED A MOTION TO ADJOURN THE MEETING AT 9:55 PM, SECONDED BY MR. HIBELL. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte
Board Secretary