

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

ERIN URIARTE
Secretary

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ZONING BOARD MEETING MINUTES JULY 11, 2022

A Special 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 July 11, 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 and the Asbury Park Press on June 28, 2022, and published notice in the Two River Times on July 7, 2022. Notice of the meeting was filed with the Township Clerk and posted in Town Hall on June 28, 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. Truscott, Mrs. Rogers, Mr. Hibell, Mrs. Sheridan, Mr. Shanker, Mr. Barvels

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

Absent: Mr. Bane

A Salute to the Flag followed.

APPROVAL OF MINUTES

June 27, 2022 – MRS. ROGERS OFFERED A MOTION TO APPROVE THE MINUTES, SECONDED BY MR. WREDE.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Sheridan, Rogers, Shanker, Sheridan

Nays: None

APPROVAL OF RESOLUTIONS

None

NEW BUSINESS

#2022-008, Ignazio Giuffre, Block 885, Lot 15, 2 Brows Dock Road, Application for Bulk Variances – Mr. Vella explained this application is being carried to allow time for the applicant to try to resolve issues with a potential objector. The hearing is carried to August 22, 2022 at 7:00 PM in Town Hall, 1 Kings Highway, Middletown, NJ. No further notice will be required.

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

#2022-003, Nicolissa, LLC, Block 942, Lots 70 & 72, 170-180 Highway 35, Application for Amended Preliminary and Final Major Site Plan Approval with Bulk & Use Variances – Mr. Vella explained the notices are in order and the Board has jurisdiction to hear this matter. The Preliminary/Final Major Site Plan 160-180 Highway 35, consisting of 11 sheets, prepared by Shore Point Engineering, dated November 5, 2021, last revised March 21, 2022 was marked as Exhibit A-1. The Technical Review Memo from the Township Planner, dated June 15, 2022 was marked as Exhibit ZB-1. The Technical Review Memo from the Board Engineer, dated June 20, 2022 was marked as Exhibit ZB-2. The prior Resolution of Approval for this property was marked as Exhibit ZB-3.

Rick Brodsky, Esq., appeared on behalf of the applicant. They are seeking approval for the expansion of a nonconforming use, along with a reconfiguration of the parking lot and improvements to the outdoor seating and valet area. The property currently exists as Nicholas Barrel & Roost. Variances are requested as part of the expansion and the applicant is trying to address an on-going parking problem by making significant, costly improvements to the site. By entering into an agreement with the neighbors, they have added a net increase of 38 parking spaces. Currently the patrons have been parking in the neighborhood and it is hard to control public parking so the additional 38 spaces should mitigate the impact on the adjacent neighborhood. There is also a parking agreement with two other parking lots within walking distance for the employees to utilize. All employee parking is off-site and that is a condition of employment. Due to a change in times caused mainly by the pandemic, the restaurant has transitioned from a high-end, highly exclusive restaurant to a more family-friendly, casual dining experience, which has been highly successful. The applicant is here seeking relief from prior conditions of approval related to hours and days of operation, lunch operations and number of seats. They are also seeking variances for a buffer to the residential use, lot coverage and parking counts.

Nicholas Harary, owner and operator, was sworn in. He confirmed all the opening remarks to be accurate. He summarized the history of the restaurant use, noting that he noticed a change in what the patrons were asking for back in 2018. When COVID hit, they were able to go under construction to implement those changes. When the Executive Order for outdoor dining was issued, he never thought people would want to sit in a parking lot along Route 35 to dine, but he was wrong. The demand for outdoor dining has survived the pandemic and he is now five times busier than "Restaurant Nicholas" had ever been. He agrees that there is a parking issue in the neighborhood, some residents count as many as twenty cars parked in the neighborhood, so the additional 38 spaces should alleviate that concern. A colored site plan was marked as Exhibit A-2. Mr. Harary discussed the proposed layout and parking lot circulation. They are making significant improvements to the two parking lots to essentially create one operating lot. The new business model is not as exclusive so not all seats are always filled – at the very most there will be 120 seats.

Mr. Vella clarified that parking counts are based on square footage and not the number of seats. He then asked for clarification on the employee parking areas. Mr. Harary advised they have parking arrangements with 124 Highway 35 and 110 Highway 35.

Mr. Hinckley expressed concern with overlapping of parking during the day. Mr. Harary explained that problem exists currently and adding 38 spaces will alleviate any issues. All staff parks off site.

Mrs. Rogers asked for confirmation that no structural changes are being made. Mr. Harary confirmed same and noted that they received all approvals for the existing building.

Kevin Shelley, P.E., was sworn in and accepted as an expert engineer. Mr. Shelley discussed the traffic circulation, noting that two-way traffic is being added. He described the existing conditions and proposed changes, explaining two spaces are being added to the restaurant property and 36 spaces are being added to the adjacent lot. They have made changes to the loading zone and refuse areas to address ongoing issues with deliveries and trash pick-up. A proposed outdoor walk-in cooler will allow for incentive to the delivery drivers to park in that loading area. Additional site lighting will be added in accordance with the Township Ordinances, and will be placed on times with shields to mitigate impact on the neighbors. A dense buffer is being added to screen the residential use through evergreens and shade trees.

Mrs. Bouw requested safer pedestrian access from the adjacent lots to the restaurant, to keep patrons off the shoulder of the highway. A discussion was held and the Board indicated they would rather see safer pedestrian access over more parking spaces.

Ms. Citrano suggested closing off the access to Cooper Boulevard. Mr. Shelley advised they can look at that. A discussion was held regarding alternate options to prevent on-going issues from continuing.

Mr. Truscott asked if there are any spots designated for take-away dining. Mr. Harary advised there is no take-out, no delivery and no DoorDash or Grubhub.

Mr. Hibell questioned internal sidewalks and was advised none are proposed.

Mr. Shelley advised the application will be providing an infiltration system to address stormwater and there will no increase in run-off. In terms of parking, the applicant is required to have 126 spaces, however 107 are provided. The spaces provided will adequately address the needs of both sites. He added that all employee parking is done off-site and the Ordinance expect a number of required spaces to be utilized for employees.

Mr. Hoder referred to his report and while a water quality treatment device is not required because this is not a major development, but he would recommend one be installed. It is a costly expense and lots of maintenance. He added that the applicant did a great job with the design and he feels it will improve the current situation.

At this time, the Board took a brief recess and reconvened at 9:17 pm.

Mr. Hoder requested additional landscaping along the rear property and the applicant agreed. He added that the front of the property is barren and could use some landscaping. The applicant is waiting for DOT approval and will submit accordingly. Mr. Hoder added that the light levels will have to be brought down as well.

Christine Nazzarro-Cofone was sworn in and accepted as an expert Planner. She explained that the applicant is seeking a D-2 variance for the expansion of a non-conforming use and explained

the criteria that must be met to grant said relief. The existing business is thriving with a need to harmonize with the adjacent use. The seating capacity is not being increased from what currently exists, they are improving functionality of an existing business. She feels this application meets criteria H in that it promotes free flow of traffic and circulation. This a great opportunity to make changes. She added that the Master Plan calls for consideration to sustain economic vitality. There will be no detriment on the public good or zone plan in granting the relief requested.

Ms. Citrano referred to the significant overlap of parking with the adjacent use and asked if 38 spaces will be adequate during the day. Ms. Cofone explained the off-peak restaurant hours will be the most likely time for overlap parking. The applicant has placed all employees off-site and the two uses peak at different times therefore any overlapping will be minimal. Ms. Citrano questioned the buffer to the residential neighborhood. Ms. Cofone agreed additional buffering is needed and advised additional plantings will be installed and perhaps a board-on-board fence to further buffer the use.

Board members asked questions related to restricted parking for the office tenants and high turnover of lunch traffic. A discussion was held regarding the terms of the parking agreement. The shared parking agreement will be filed with the County.

Chairman Hinckley opened the hearing to members of the public.

Amy Jachyra, 34 Wilson Circle West, was sworn in and offered comments related to traffic safety concerns, patrons violating traffic laws, emergency vehicle access and snow removal. She added that kids in the area use the alley as a cut-through and the proposed improvements would prevent them from traversing the site.

Pete Geary, 25 Cooper Boulevard, was sworn in and made a statement regarding his concerns with the application. He is concerned with the vague design, traffic, noise and the diminishing quality of life he has had over the last six years living there. He indicated he has hundreds of photos and videos of ongoing traffic issues and bad driving in the neighborhood. Mr. Vella explained the Board cannot implement parking rules on public roadways. Mr. Geary added that he would be in favor of closing the Cooper Blvd access.

Anthony Marszalek, 70 Wilson Circle East, was sworn in and indicated concern with traffic and staging of construction equipment. He added that he does not have a driveway due to lot coverage issues and on-street parking is valuable to him.

At this time, members of the audience began yelling at one another. Mr. Vella reminded the audience this is a recorded hearing.

Mr. Buckman, address inaudible, was sworn in and indicated concern with Mr. Harary's other businesses. Mr. Hinckley explained that is not within the purview of the Board. Mr. Buckman further indicated concern with parking and being insulted by the owner. He would be in favor of closing the Cooper access driveway.

Mr. Vella announced this application is being carried to July 25, 2022 at 7:00 PM in Town Hall, 1 Kings Highway, Middletown, NJ. No further notice will be required.

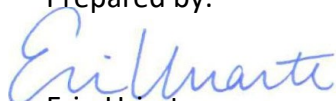
Mr. Vella explained to the Board that the Sirois application will not likely not be heard of July 25 because their planner is not available. The Board agreed to move forward with conducting the re-do of the May hearing before making moving forward with the application.

EXECUTIVE SESSION – None

ADJOURNMENT

MRS. BOUW OFFERED A MOTION TO ADJOURN THE MEETING AT 9:40 PM, SECONDED BY MR. HIBELL. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte
Board Secretary