

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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"Pride in Middletown"

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ZONING BOARD MEETING MINUTES SEPTEMBER 12, 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 September 12, 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 Two River Times on August 4, 2022 and the Asbury Park Press on August 26, 2022. Notice of the meeting was filed with the Township Clerk and posted in Town Hall on August 4, 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, Mr. Hibell, Mr. Bane, Mrs. Rogers, Mrs. Sheridan, Mr. Barvels, Mr. Shanker

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

A Salute to the Flag followed.

APPROVAL OF MINUTES

Mr. Hinckley advised the Minutes will be carried to the next meeting.

APPROVAL OF RESOLUTIONS

Mr. Hinckley advised the Resolutions will be carried to the next meeting.

NEW BUSINESS

#2022-010, Kaitlin & Everett Moore, Block 417, Lot 3, 418 Glenmary Avenue, Application for Bulk Variances – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter.

Mr. Hinckley advised the applicant that construction information is not relevant, the Board is looking for land use testimony only.

John Anderson, Esq., appeared on behalf of the applicant and stated the subject property is a non-conforming lot with an existing single-family home. A variance is being requested for a setback of five feet where thirty feet is required. He noted that the home had been in severe disrepair for many years and the applicant will testify as to the construction in order to establish a timeline. He added that the existing accessory structure will remain.

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

A photo board with four photos prior to construction was marked as Exhibit A-7. A photo board with photos of the home as it exists was marked as Exhibit A-8. An aerial photo of the neighborhood was marked as Exhibit A-9. Photos of similar homes in the area were marked as Exhibit A-10.

Everett Moore was sworn in as the homeowner. He has owned the property for two years and wanted to keep the existing footprint with an addition of 400 square feet to each floor. The proposed construction will not worsen any existing variances and they will actually increase the front setback. Mr. Moore added that he misunderstood the requirements for leaving 25% of the home meant that he could remove three walls, not an actual percentage. The walls have been removed and the home has been stripped to the frame. The existing foundation will remain however there is a section that is new. He added that the remaining framing will have to come down as well before he can start construction.

Board members indicated concern with exceeding the requirements and noted that it has gone beyond just removing walls, the frame has been left exposed. Mr. Moore indicated the home had been cat infested with several aluminum foil layers, which made it hard to anticipate the scope of work that was needed.

Mr. Hinckley asked if the applicant has considered moving the home. Mr. Moore explained that is not possible at this point. Mrs. Bouw suggested a one-story home. Mr. Moore replied that would not be ideal to meet his family's needs.

Mr. Bane asked if the home had been impacted by Hurricane Sandy. Mr. Moore explained that it had not, but there is a stream towards the rear of the property, so they do not want to push the home towards the rear of the property.

Maxine Giordano was sworn in and accepted as an expert Architect. She explained the design calculations and clarified the square footage of the home, noting the applicant requires variance relief for front- and side-yard setback. The front yard minimum setback is 30' and 5.6' exists and is proposed; and the side yard minimum setback is 10' and 6.7' exists and is proposed. The Wagner Creek is to the rear of the property and drives the push of keeping the home towards the front of the property.

Andrew Janiw was sworn in and accepted as an expert Planner. Mr. Janiw explained the property is located in the R-15 zone. The previous home was undersized, and the intent was to renovate, however the demolition had been taken beyond the 25%. The applicant intends to maintain the existing side setbacks and the front setback will be lessened; however, relief is still required. The applicant is proposing a two-story home, which is in line with the bungalows to either side. He noted a two-story home close to the curb line at the corner. The lot line is set well within the curb line for this property so it will appear to be setback even further. Variance relief can be granted under the C1 criteria of the Municipal Land Use Law. The proposal is within the character and reinvestment pattern of the neighborhood. It encourages the appropriate use and promotes general, health, safety and welfare of the community. The environmental constraints of the Wagner Creek help drive the need for relief. The foundation is existing, and the redevelopment of the site would not be a detriment to the community. The proposal is cost effective and will maintain the character of the neighborhood.

Mr. Wrede indicated the Wagner Creek does not appear to be as close as they are indicating. He asked if a conforming home can be built on the lot. Mr. Janiw replied yes.

Mr. Truscott questioned the public benefit. Mr. Janiw explained that flood proofing is a public benefit. Keeping the home further away from the creek is consistent with the neighborhood. FEMA mapping was marked as Exhibit A-11. Mr. Truscott indicated concern with side yard encroachment intensifying with a second story being added.

Mrs. Bouw notes smaller homes in the area and indicated concern with setting precedent.

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

Joseph Earhart was sworn in and advised he lives down the road. He indicated concern with homes being built on an old foundation. He indicated concern with the building code and stated that he would like to see a family in the home.

Seeing no further comments, Mr. Wrede offered a motion to close the public hearing, seconded by Mrs. Bouw. All present members voted in favor by voice vote.

At this time, the Board took a brief recess and reconvened at 8:21 pm.

Mr. Anderson requested that this matter be carried to the next meeting.

Mrs. Bouw indicated she had no objection to carrying the matter. Mr. Wrede indicated he would like the application to be withdrawn. Mr. Hinckley indicated he would want to see a significant improvement to the plan.

Mr. Vella noted that this application is being carried to October 24, 2022, at 7:00 pm in Town Hall at 1 Kings highway, Middletown. No further notice will be required.

OLD BUSINESS

#2021-016, Adam & Marisha Sirois, Block 770, Lot 4, 24 Witches Lane, Application for Planning & Bulk Variances – Mr. Vella advised this application was the subject of a three-hour hearing back in May, however there were audio difficulties, and the meeting did not record. Tonight, the began the “re-do” in August and left off at the cross examination of the applicant’s Planner, Mr. Janiw.

G. Aaron James, Esq., appeared on behalf of the objectors. He asked several questions to clarify the testimony related to frontage, elevations, height and the specific homes studied in the neighborhood study. A realtor.com listing showing the home square footage of 1,95 sf for 23 Witches Lane. Mr. Janiw noted it is not clear what the square footage includes. Mr. James asked questions related to the view of 27 or 30 Bayview. Mr. Janiw advised he had not been on either of those properties but has observed the subject property from in front of those properties.

Mr. James cross-examined Mr. Sirois and asked several questions to confirm the testimony related to purchase date, reasons for the expansion and the desire to stay in Monmouth Hills. Mr. James noted there had been about 5 other homes for sale and asked if Mr. Sirois has toured any of them. Mr. Sirois indicated he had not .

Mr. Hinckley opened the hearing to any members of the public not represented by Mr. James. Seeing none, he advised he will allow for public comment at this time.

Mr. James called his first witness. Sarah Elizabeth Hearn-Nelson, 27 Bayview Terrace, was sworn in as the property owner of 27 Bayview Terrace. Ms. Hearn-Nelson advised that she pays fees to preserve the historic nature of the neighborhood and has several concerns with living

below an ultra-modern home. She has concerns with the approval received from the Monmouth Hills Association, privacy and sewer issues.

Mr. Anderson cross examined Ms. Hearn-Nelson to confirm the view of the water is from the rear of the home and all outdoor amenities on her property are in the rear, facing the water view. Referring to Exhibit A-23, Mr. Anderson asked if Ms. Hearn-Nelson can see the subject home from the rear of her property, she confirmed it is not and that it will not impede the water view from her home.

Mitchell Nelson, 27 Bayview Terrace, was sworn in. Mr. Nelson testified that he spoke to Mr. Sirois a few times but not regarding the design of the home. Mr. Nelson is concerned with being able to see the proposed home and seeing the lights on when they are home. When he received notice of the application, he went to Town Hall and was aghast by the plans.

Paulina Giraldo, 20 Exchange Place, NY and owner of 30 Bayview Terrace, was sworn in. She testified that she has looked at hundreds of homes in the area before purchasing this one. She can currently see the subject property from her Master bedroom window and needs curtains to sleep because their lighting shines into her windows. She noted that they had been friendly prior to expressing she did not like the design of their proposed addition.

Mr. Anderson cross examined and confirmed the water view of 30 Bayview Terrace is from the rear of the property and will not be impacted by this proposed addition.

Mr. Hinckley opened the hearing to members of the public who wish to speak and are not represented by Mr. James.

Don Claussen, West Twin Road, was sworn in and offered comments supporting the application.

Paul Kenney, 39 East Twin Road, was sworn in and offered comments supporting the application.

Leslie Krauss, 19 Park Way, was sworn in and offered comments supporting the application.

Keith Glass, 37 East Twin Road, was sworn in and offered comments supporting the application.

Richard King, 22 Witches Lane, was sworn in and noted his home is the closest to the subject property, He further offered comments supporting the application.

Rob Kellner, 40 West Twin Road, was sworn in and offered comments supporting the application.

Derek Debree, 4 Serpentine Drive, was sworn in and offered comments supporting the application.

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

Mr. Anderson and Mr. James summarized their cases.

Mrs. Rogers stated that she feels the application is in character with the neighborhood. The applicant has a right to stay there and raise their family.

Mrs. Bouw indicated that expanding vertically is the more appropriate way to go due to the steep slopes and the mature growth on the property.

Mr. Hibell agreed the vertical expansion is better.

Mr. Hinckley added that the topography drives the unique heights of the homes, so he does not have an issue with that. The existing home is too small for the lot and the applicant has a right to a reasonably sized home. The vertical expansion is a better design alternative than horizontally due to the steep slopes and the existing trees.

Mr. Truscott indicated he agrees with the previous comments and noted that the topography drives the need for a height variance.

Mr. Shanker agreed with the previous comments and advised he feels the applicant has met the criteria.

Mr. Vella noted that any favorable action would include the following conditions: repair retaining wall, a grading plan to be reviewed and approved by the Township Engineer and Fire Advisory Board approval.

MRS. ROGERS OFFERED A MOTION TO APPROVE THE APPLICATION, SECONDED BY MR. WREDE.

Roll Call:

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

Nays: None

ADJOURNMENT

MR. BANE OFFERED A MOTION TO ADJOURN THE MEETING AT 10:53 PM, SECONDED BY MR. TRUSCOTT. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte

Board Secretary