

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

3 Penelope Lane
Middletown, NJ 07748-2504

JAMES HINCKLEY
Chairman



Organized December 14, 1667
"Pride in Middletown"

ZONING BOARD MEETING MINUTES JANUARY 27, 2020

SANYOGITA S. CHAVAN, P.P., A.I.C.P.
Director of Planning

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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 P.M. on January 27, 2020.

Chairman Hinckley called the meeting to order and read the following notice:

The Notice Requirements provided for the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Independent, the Star Ledger and the Two River Times and by posting at the Middletown Township Municipal Building and filing with the Township Clerk on December 20, 2018.

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. Hinckley, Mr. Wrede, Ms. Bouw, Mr. Truscott, Mr. Zaccardo, Mr. Bane, Mr. Buncati, Mr. Hibell

Also present: Gregory Vella, Esq., Board Attorney; Sanyogita Chavan, Township Planner; Stacy Krause, Board Planner; Erin Uriarte, Board Secretary

Absent: Ms. Sonatore, Ms. Sheridan

A salute to the flag followed.

Mr. Hinckley opened the meeting to the public for questions or comments for non-agenda items, however none were received.

REORGANIZATION OF THE BOARD

Election of the Chairman – Ms. Bouw offered a motion to nominate Mr. Hinckley as Board Chairman, seconded by Mr. Truscott.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

Election of the Vice Chairman – Mr. Hinckley offered a motion to nominate Ms. Bous as Vice-Chair, seconded by Mr. Truscott.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

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

Appointment of Board Attorney – Mr. Hinckley offered a motion to appoint Gregory Vella, Esq. of Collins, Vella and Casselo as Board Attorney, seconded by Mr. Zaccardo.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

Appointment of Board Engineers– Mr. Hinckley offered a motion to appoint Hoder Associates and Najarian Associates as Board Engineers, seconded by Mr. Wrede.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

Appointment of Board Secretary – Mr. Hinckley offered a motion to appoint Erin Uriarte as Board Secretary, seconded by Ms. Bouw.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

Mr. Truscott offered a motion to adopt the following Resolution, which was seconded by Mr. Zaccardo:

Whereas, the Open Public Meetings Act (NJSA 10:4-6 et seq.) provides for the giving of the annual notice by public bodies of the time, date and location of the regular meetings of such public body to be held during the succeeding year; and

WHEREAS, the Open Public Meetings Act hereinafter referred to as the Act, authorizes a public body to make certain other determinations and take certain other actions in conformance therewith.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Middletown, as follows:

Regular meetings of this board shall be held during the 2020 calendar year at 7:00 P.M. at the Middletown Township Municipal Building, Main Meeting, One Kings Highway, Middletown, New Jersey on the following dates:

January 27	June 22	November 23
February 24	July 13	December 14
March 23	August 31	January 25, 2021
April 27	September 28	
May 18	October 26	

At all regular meetings of the Middletown Zoning Board formal action may be taken on any matter subject to compliance with the Open public Meetings Act respecting issuance of the “48 hour notice” containing the agenda for such regular meetings to the extent known.

The following newspapers are hereby designated as the newspapers to receive any and all notice required or permitted to be given under The Act, including but not limited to Annual Notice and 48 hour notice:

- a. The Star Ledger which is an official paper of this public body; and
- b. The Independent and The Two River Times, which are hereby designated and determined to be the other newspapers which have the greatest likelihood of informing the public within the area of jurisdiction of the Township of its meetings.

Copies of this Resolution and any revisions or modification thereof, certified to be true copies by the Secretary of this Board be disseminated and distributed as required by The Act as follows:

- a. The Star Ledger which is an official newspaper of this public body;

- b. The Independent and The Two River Times, which are hereby designated and determined to be the other newspapers which have the greatest likelihood of informing the public within the area of jurisdiction of this Township of its meetings;
- c. Filed with the Department of Planning; and
- d. Mailed to such other person as may be entitled thereto under the terms of the act and this resolution.

Take further notice that further resolutions may be adopted at these public meetings providing for the Zoning Board to meet in executive session specifying matters to be discussed requiring confidentiality and/or of a privileged nature as permitted by NJSA 10:4-12 and 13.

Take further notice that regular public meetings or executive session may be cancelled or adjourned. Rescheduled regular public meetings shall be duly advertised

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

Mr. Hinckley took a moment to commend all Board appointees and Board members. He also welcomed Stacy Krauss as the new Board Planner, as well as Mr. Hibell, the newest Board member.

APPROVAL OF MINUTES

MR. ZACCARDO OFFERED TO APPROVE THE MINUTES OF DECEMBER 9, 2019, SECONDED BY MS. BOUW. ALL PRESENT, ELIGIBLE MEMBERS VOTED IN FAVOR BY VOICE VOTE.

ADMINISTRATIVE MATTERS

Payment of Vouchers – Ms. Bouw indicated she has reviewed the vouchers and found them to be in order.

MRS. BOUW OFFERED A MOTION TO APPROVE THE PAYMENT OF VOUCHERS FOR JANUARY 27, 2020 SECONDED BY MR. WREDE. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

NEW BUSINESS

Extension of Approval - #2018-014, 216 Pine Place, Monty Matriciani – Mr. Vella explained this request and noted that the applicant had some issues with the contractor. The applicant is seeking a one-year extension of the variance approval previously granted by this Board.

MR. WREDE OFFERED A MOTION TO GRANT THE EXTENSION, SECONDED BY MR. BANE.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

#2019-015, Lee Scott, 38 Van Tat Road, Block 781, Lot 7, Application for Bulk Variances – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter.

Kevin Kennedy, Esq., introduced himself on behalf of the applicant, Lee Scott.

The Site Plan prepared by Peter Goodhue was marked as Exhibit A.-1. The technical planning memo was marked as Exhibit ZB-1. An email from John Drucker, Fire Official, was marked as Exhibit ZB-2.

Mr. Kennedy noted that the applicant seeks variance relief to demolish the existing home and build a new home. This is a unique section of town, nestled into the Hartshorne Woods. The lot

is undersized with only approximately 21,000 square feet where 100,000 square foot lots are required. The existing slopes and septic also provide challenges to the building design.

Lee Scott was sworn in as the applicant and owner of the property. Mr. Scott advised that he currently lives on the site, in the existing home, which is situated lengthwise on the property with the great windows facing out to the neighboring properties, rather than out towards the Hartshorne Woods. The property is nestled in the Hartshorne Park and contains some old trees that he would hate to cut down so that adds to the design limitations along with the septic tank in field that were installed right before he bought the home. The lot is also undersized for the zone requirements and contains some steep slopes, which also caused some developmental challenges. The road is a dirt road and the neighborhood is unique and quaint; he feels the proposed design fits well within the character of the neighborhood. The existing home currently needs severe maintenance. It was built in 1930 and was originally an old servant house that was subdivided off the master lot and does not meet the needs of a modern family. Renovation was considered but it was an unlikely probability due to the lack of a core foundation.

The current home sits within 18 feet of the property line to the north with a gap to the south. Mr. Scott feels that orienting the home to run with the width of the property would be a better use of the space. He is proposing to essentially turn the home on a right angle to center it on the property so that the view from the rear of the home is of the woods and not of the neighbor.

A photo of the side of the existing home was marked as Exhibit A-2. A photo of the existing porch eaves showing rotting conditions was marked as Exhibit A-3. Mr. Scott explained that the existing trees and the septic areas added constraints to the footprint design. The new proposed home will be wooden material, to fit with the natural elements of the area. No trees will be removed. In regard to privacy concerns, there is no detriment proposed to the neighbor's property as they are removing large areas of visibility to the neighboring properties. Privacy trees will also be added along the property line on the south to mirror the northern side property line. Board members expressed concern with an existing lighthouse and were advised that it will remain. Mr. Scott added that the proposed design will not impede the view from any of the neighbors' homes in the area.

Mr. Vella noted that the comments from the Fire Department suggest a fire suppression system, although it is not required.

Ms. Chavan reviewed the planning waivers that are required.

Peter Goodhue was sworn in and accepted as the project architect. Mr. Goodhue advised that the property is an undersized lot for the zone. The slopes and septic also added constraints on their design. He echoed comments of Mr. Scott regarding the current location of the home in relation to the surrounding area. In his talks with the Township Zoning Officer, Mr. Goodhue applied the appropriate zone requirements for this size lot when designing the home. If they were to meet the requirements of the actual zone, the footprint of the home would be about the size of a shed. A topographic plan with the existing home show was marked as Exhibit A-4. A 3-D model of the proposed home showing the grade of the property was marked as Exhibit A-5. The proposed design pulls the house away from the road, with the first floor essentially sitting below grade due to the slope of the property. The applicant is proposing a modest 3 bedroom home, with two and a half bathrooms, for a total living space of 2,600 square feet, plus approximately 500 additional square feet for the garage area. An exhibit showing the proposed home with a conforming home was marked as Exhibit A-6. Mr. Goodhue went on to describe the floor plans.

Ms. Chavan noted that the basement exceeds the floor area ration requirement. Mr. Goodhue noted that he will call it out as a basement and will need to calculate the new FAR.

The Board took a brief recess and reconvened at 8:16 pm.

Mr. Goodhue advised that the new total square footage will be 3,944 square feet with a FAR of 18.74 % where only 7% is permitted.

Mr. Kennedy discussed the variances being requested, noting that they are seeking relief for lot area, lot frontage and front setback, even though the current setback condition is being improved. The preservation of mature trees on the property and the septic do cause design restraints. The side setback of 20 feet is proposed where 16 feet currently exist. They are also proposing 5% building coverage. This is a better design alternative, there is no detriment to the zone plan and it is consistent with the existing neighborhood.

Chairman Hinckley opened the meeting to members of the public who wish to speak.

Daniel O'Hearn Esq., appeared on behalf of Marc Galligan, the owner of the property to the south, which is currently vacant. His client had purchased an older structure, which has been demolished. His client is not seeking a variance and was told not to seek the variance. Mr. O'Hearn expressed concern with not hearing testimony regarding the hardship variances versus a C-2 variance.

Marc Galligan was sworn in and currently resides at 5 Markwood Lane, Rumson and is the owner of 32 Tan Vat Road. He stated that he designed his home based on Township advice not to seek variances. He bought his home after this applicant and had his old septic system replaced and now proposes a new conforming home. He objects to the setback variance and also feels this is an invasion of privacy due to the placement of the decks.

Deane Wolf, 44 Tan Vat Road, was sworn in and advised they own the home adjacent to the applicant. Comments were offered in favor of the application and added that they will be the closest neighbor to the home.

Cheryl Ann Nalter, 20 Tan Vat Road, was sworn in and noted that she lives three houses down on the south. She is the realtor who sold Mr. Scott his home. She echoed the comments regarding the disrepair in the existing home and stated that the beauty is in the front and rear of the home, not looking out the sides.

Lori Carton, 62 Tan Vat Road, stated that her husband's family has been in the area for many decades. She is in full support of this application and welcomes Mr. Scott into their close-knit community.

John McDonald, 2 Tan Vat Road, was sorry to hear of the breakdown of the process.

William Riker, 249 Hartshorne, offered comments in support of the application, noting that this will fit well within the charm of the area.

Seeing no further comments or questions, Ms. Bouw offered a motion to close the public portion, seconded by Mr. Bane. All members voted in favor by voice vote.

Mr. Kennedy advised that the hardship standards would apply due to the topography of the property and the C-2 provisions would also apply as the benefit outweighs any detriment. The applicant is improving the use of a lot, orienting the house with views away from the neighbor and with that, the relief being sought can be granted without any detriment to the existing zone plan or character or the neighborhood.

Mr. Vella advised that any motion in the affirmative would include the following conditions: items A & B of the Fire Department email, additional landscaping to be added to the landscaping plan on the south side of the property, a grading plan must be approved by Engineering prior to applying for a building permit and the error in the zone schedule will be corrected.

Board members offered several comments in favor of the application.

MRS. BOUW OFFERED A MOTION TO APPROVE THE APPLICATION WITH CONDITIONS NOTED, SECONDED BY MR. BANE.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

#2019-015, Louis Alimi, 9 Burlington Ave, Block 402, Lot 5, Application for Bulk Variances – Mr. Vella noted that the notices are in order and the Board has jurisdiction to hear the matter. A Survey of Property, prepared by Michael S. Lynch, of three (3) sheets and dated March 14, 2019 was marked as Exhibit A-1. A Site Plan, prepared by Anthony M. Condouris Architect, of three (3) sheet and dated July 30, 2019 and revised through August 30, 2019 was marked as Exhibit A-2. The Planning memo of January 2, 2020 was marked as Exhibit ZB-1.

Anthony Condouris was sworn in and accepted as the project Architect. Louis Alimi was sworn in as the owner applicant.

Mr. Alimi advised he would like to replace the small porch on the home, which currently does not provide much space to access the door nor does it provide adequate shelter from the elements while trying to get in the house. A photo of the existing porch was marked as Exhibit A-3. The current garage is a one-car garage that needs to be repaired because tree roots have compromised the foundation and it has a leaky roof and mold. He has a carport tent now to cover the two cars he owns and he would like to be able to store them both in the garage. A photo of the front of the home was marked as Exhibit A-4.

Mr. Condouris advised that the existing home lacks detail and symmetry. The existing balcony is accessed by a window only and the area is covered in black mold. He explained the new proposed layout, noting that it will be an improvement to both the property and the neighborhood. They are trying to maintain the existing walkway, however they will remove approximately 5 feet by 32 feet of the existing gravel and will replace it with grass. The remaining driveway will be paved. The five foot required setback will be maintained for the driveway.

Seeing no further comments or questions, Ms. Bouw offered a motion to close the public portion, seconded by Mr. Bane. All members voted in favor by voice vote.

MR. WREDED OFFERED A MOTION TO APPROVE THIS APPLICATION, SECONDED BY MR. ZACCARDO.

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

#2019-017, 113 Tindall LLC, Block 642, Lot 6.01, 107-113 Tindall Road, Application for Minor Subdivision with “D” Variance – Mr. Vella noted that the notices are in order and the Board has jurisdiction to hear this matter.

John Anderson, Esq., appeared on behalf of the applicant. A Boundary & Topographical & Minor Subdivision Map, prepared by John T. Luts, consisting of one (1) sheet and dated June 17, 2019 and revised through November 12, 2019 was marked as Exhibit A-1. A photo board consisting of 3 photos dated December 2019 was marked as Exhibit A-2. The planning memo dated January 3, 2020 was marked as Exhibit ZB-1. An aerial photo was marked as Exhibit A-3.

Mr. Anderson stated that there had been a 2003 approval to consolidate the lots; the applicant is now seeking to subdivide the lots, with cross access and parking agreements to remain in place.

Mr. Vella explained the financial reasons driving this application, noting that most likely the applicant is looking to sell a building. All previously imposed conditions, parking agreements and easements will remain.

John Luts was sworn in as the Land Surveyor for this project. He explained the reason for the lot line placement, noting that there are no changes proposed to the property. He added that a blanket easement also exists and will remain for drainage.

Ms. Chavan asked for clarification on the trash configuration. Robert Becker was sworn in as the owner and operator. Mr. Becker noted that waste and refuse area is shared and will remain so. No changes are proposed, as it currently seems to be working well for both buildings. Ms. Chavan had requested street trees around the enclosure however the Board did not feel it was a necessary requirement.

Paul Ricci was sworn in and accepted as an expert Planner. He referred to Exhibit A-3 and explained the location and current use of the property, as well as the surrounding uses. The proposed subdivision will cause no detriment on the neighborhood, as no changes are proposed. There is no negative criteria in granting the subdivision. The two lots will continue to operate as they do today. Ms. Chavan reminded the applicant that no medical uses would be permitted.

Mr. Vella noted that the Subdivision Deed must be submitted for review and approval and all prior conditions of approval will remain.

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

Roll Call

Ayes: Wrede, Bouw, Hinckley, Zaccardo, Truscott, Bane, Hibell, Bruncati

Nays: None

EXECUTIVE SESSION

Mr. Vella asked that a Board Member offer a motion to enter into Executive Session for the purpose of discussing Goldenview Litigation.


MRS. BOUW OFFERED A MOTION TO ENTER INTO EXECUTIVE SESSION AT 8:30 PM, SECONDED BY MR. TRUSCOTT. ALL MEMBERS VOTED IN FAVOR BY VOICE VOTE.

The Board reconvened at 10:05 pm.

ADJOURNMENT

MS. BOUW OFFERED A MOTION TO ADJOURN THE MEETING AT 10:06 PM, SECONDED BY MR. HINCKLEY. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:


Erin Uriarte, Board Secretary
Zoning Board of Adjustment