

TOWNSHIP OF MIDDLETOWN

Zoning Board of Adjustment and Appeals

One Kings Highway
Middletown, NJ 07748-2504

JAMES HINCKLEY
Chairman



Organized December 14, 1667
"Pride in Middletown"

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ZONING BOARD MEETING MINUTES MARCH 27, 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 March 27, 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. Hibell, Mr. Bane, Mrs. Rogers, Mrs. Sheridan, Mr. Shanker

Absent: Mr. Truscott, Mr. Barvels

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

A Salute to the Flag followed.

APPROVAL OF MINUTES

February 27, 2023 – MR. HIBELL OFFERED A MOTION TO APPROVE THE MINUTES OF FEBRUARY 27, 2023, SECONDED BY MR. BANE.

Roll Call:

Ayes: Wrede, Bouw, Hinckley, Hibell, Bane

Nays: None

APPROVAL OF RESOLUTIONS

#2022-010, Kaitlin & Everett Moore, Bock 417, Lot 3, 418 Glenmary Avenue, Granting Bulk Variance Approval – MRS. BOUW OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MRS. ROGERS.

Roll Call:

Ayes: Bouw, Hinckley, Bane

Nays: None

ADMINISTRATIVE MATTERS

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 application is being carried to May

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

22, 2023, which will be a Regular Meeting to be held at 1 Kings Highway, Middletown at 7:00pm. Unfortunately, Board staff was unable to coordinate a date for a special meeting,

#2022-008, Ignazio Giuffre, Block 885, Lot 15, 2 Browns Dock Road, Application for Bulk Variances – Mr. Vella advised this is a continuation of a previous hearing.

Rick Brodsky, Esq. appeared on behalf of the applicant and summarized the previous hearings, noting there were some concerns raised by neighboring objectors. The plan has been revised to address some of those concerns.

Kevin Shelley, P.E., remained under oath and advised they have decreased the size of the proposed car library, however the detached garage is larger. The proposed lot coverage is now at 12.5%.

James Monteforte, Architect, remained under oath and explained the car library will now hold only 4 cars. They have also rotated and reduced the footprint of the car library as well. The second floor will contain office space and study. A paver courtyard was added, and some existing driveway is to be removed. The cabana variance relief has not changed as part of this revision. The cabana will be seasonal, with no cooking, however they would like to have air conditioner in the summer months. Mr. Vella advised he will look into whether variance relief is required. Mr. Brodsky indicated the applicant would request a variance if necessary. The floor area ratio calculation has also been reduced.

Christine Cofone-Nazarro, PP, remained under oath and summarized the revisions made. She advised that the ten foot setback for the accessory structure can be approved as a C-1 or C-2 criteria. This is a lawful, pre-existing home and they are maintaining and retaining the existing structure, which is a better planning alternative. There is a substantial buffer to the west of the property which will mitigate any impact. Ms. Cofone referred to an aerial photo of the property, marked as an exhibit A-12, to show the Board that the proposal for the car library is consistent with what exists on many other properties in the area. Photos of the existing vegetation were marked as Exhibit A-13. Ms. Nazarro further advised she agrees with all comments in the Technical review memo of the Planning Director.

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

Robert Simon, Esq. appeared on behalf of the Huber Family, who had objected to the application. Mr. Simon commended the applicant's team for the willingness to compromise and thanked everyone involved in bringing this plan closer to conformity. He advised that they are in favor of the current plan revisions.

Mr. Vella advised that just because the neighbor is in agreement does not mean the Board will approve the application.

Seeing no further comments from the public, Mrs. Rogers offered a motion to close the public portion, seconded by Mr. Bane. All present, eligible members voted in favor by voice vote.

Mr. Vella advised that he and Ms. Citrano discussed the air conditioner request and while it remains unclear, Mr. Vella suggests granting the variance, just in case relief is necessary. He feels the intent of the Ordinance is being met through a deed restriction. Mr. Vella further advised that if the Board were to take a favorable action, the following conditions would be

applied: details of landscaping to be provided, variances to be noted on the zone table, a deed restriction related to the seasonal use of the cabana will be recorded, grading plan approval from the Township Engineer, the property will be prohibited from any commercial uses and waiver will be granted to exceed the 5 parking space limit.

Mr. Wrede indicated concern with the size of the cabana and having two garages on one property.

Ms. Bouw indicated that she felt the relief requested is de minimis in nature.

Mr. Vella explained a deed restriction could be filed to add no commercial use or no third party use.

Mr. Hinckley offered comments indicating he does not feel the deed restriction is necessary, however he does not object to it. He offered further comments indicating he is in favor of the application as it meets the existing pattern of development.

Mr. Hinckley offered a motion to approve the application, seconded by Mrs. Rogers.

Roll Call:

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

Nays: None

Mr. Hinckley advised he will be taking the applications out of order, as Mr. Brodsky represents another applicant on the Agenda.

#2022-023, Jim & Stacy Dixon, Block 1063, Lot 24, 23 Seagull Lane, Application for Bulk Variances – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. The following exhibits have been marked: Grading Plan & Soil Erosion and Sediment Control Plan for Block 1063, Lot 24, consisting of two (2) sheets, prepared by Jensen Design Group, dated September 22, 2022, last revised November 25, 2022 was marked as Exhibit A-1; Architectural Plans for 23 Seagull Lane, consisting of eight (8) sheets, prepared by Keith Mazurek A.I.A., dated July 3, 2022 were marked as Exhibit A-2; Survey for Block 1063, Lot 24, consisting of one (1) sheet, prepared by Lakeland Surveying, dated May 31, 2022 was marked as Exhibit A-3. The Technical review memo of the Planning Director was marked as Exhibit ZB-1.

Rick Brodsky, Esq., appeared on behalf of the applicants, Mr. & Mrs. Dixon. They are seeking approval for an addition to a single-family home to modernize the property and allow for an in-law to move in. The proposed home size is consistent with what is in the neighborhood. This property was subject of a major subdivision that included a significant amount of open space.

William Jensen, PE, was sworn and accepted as an expert Engineer. An aerial photograph of the property was marked as Exhibit A-4. A copy of the tax map was marked as Exhibit A-5. A copy of the grading plan was marked as Exhibit A-6.

Mr. Jensen described the proposed addition, noting that the easement area to the rear of the property is not included in the lot area. After a brief discussion it was determined that the applicant is requesting 22.6% lot coverage.

Keith Mazurek was sworn in and accepted as an expert Architect. He summarized the proposal, noting that the applicant will also be modernizing the façade of the home. He added that there

are ten homes in the neighborhood that are larger than what is being proposed here. An architectural elevation with adjacent home information was marked as Exhibit A-7. Mr. Mazurek reviewed the adjacent home sizes.

Christine Cofone-Nazarro, was sworn in and accepted as an expert Planner. She reviewed the building and lot coverage proposals, noting that this is an undersized lot. The applicant is proposing a modest addition with a new pool. The home exists as the 3rd smallest in the neighborhood and with the addition would become the 4th smallest. A photo board of existing conditions was marked as Exhibit A-8. Ms. Nazarro referred to the HOA property to the rear of the subject property, suggesting that intended use was to give property owners more yard area, while protecting the open space area and can be used to offset the impact of any coverage variances. The 250 square feet of existing driveway further drives the need for relief for coverage. She feels the proposal can be granted under the C-1 and C-2 criteria of the MLUL. She noted proper densities being maintained and there will be no detriment to the existing zone plan. Ms. Nazarro further advised she agrees with and will comply with all comments in Ms. Citrano's review letter. Specifically, planting details will be provided.

Mr. Hinckley opened the hearing to members of the public who wish to speak.

Dino Coppola, 32 Seagull Lane, was sworn in and advised he is President of the HOA. He offered comments indicating he is in favor of the application.

Seeing no further members of the public who wish to speak, Mr. Hibell offered a motion to close the public portion, seconded by Mrs. Rogers. All present, eligible members voted in favor by voice vote.

Mr. Vella advised that if the Board were to take a favorable action, the following conditions would be applied: a landscaping detail will be added to the plan and grading plan approval from the Township Engineer.

Mr. Hibell stated that the existing driveway is driving the need for the variance.

Mr. Hinckley advised the zone plan will not be impaired.

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

Roll Call:

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

Nays: None

At this time, the Board took a brief recess and reconvened at 8:51 pm.

#2022-020, New Monmouth 35, LLC, Block 811, Lot 2, 1040-1090 Highway 35, Application for Bulk Variances – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. He further reviewed the exhibits that were previously marked: a Sign Variance Plan, consisting of four (4) sheets, prepared by Stires Associates, P.A., dated October 4, 2022 was marked as Exhibit A-1. The Zoning Officer Denial, dated November 1, 2022, was marked as Exhibit A-2. The technical review memo of the Planning Director was marked as exhibit ZB-1.

Richard Stewart, Esq., appeared on behalf of the applicant. He advised this is an application for 2 signs and the conversion of an island to a parking space.

Robert Kiser was sworn in and accepted as an expert engineer. An aerial photo of the property was marked as Exhibit A-3. Mr. Kiser described the property location and surrounding uses. A colored rendering of the site plan was marked as Exhibit A-4. Two existing signs will be removed and replaced with one freestanding sign. Three parking spaces are being added, however they still require a parking variance. The proposed sign will direct motorists to the nineteen anticipated businesses all in one location.

Eugene Madalena was sworn in as a representative of the sign company. The main tenant, Bottle King, will have a large panel at the top and the 18 remaining tenants will have a smaller tenant panel for a total of 19 panels. The sign will be internally illuminated and will be on a timer with the rest of the center.

Mr. Wrede expressed concern with the sign being lit during the day.

Christine Cofone-Nazarro, PP, was sworn in and accepted as an expert Planner. She summarized the proposal noticed that the applicant is consolidating two existing signs into one and reconfiguring the parking lot, adding three spaces. After reviewing the proposal, she feels the design is safer and provides more visibility to motorists. The applicant is also taking considerable steps to upgrade the plaza, providing a free flow of traffic. In response to Ms. Citrano's review letter, the applicant will clear the debris to the rear and will enhance the buffer. There are no 24-hour businesses proposed. Ms. Nazarro feels there will be no impact to the existing zone plan by granting the requested variances.

Mr. Hinckley opened the hearing to members of the public who wish to speak.

Brian Cullen, 10 Greenwood Place, was sworn in and advised the current sign is visible from his bedroom. He does not have blinds and likes to open windows. He is opposed to the signs being lit and has concerns regarding the smell of the dumpsters and the smell of the Japanese restaurant.

Ms. Citrano advised she reviewed the previous approval that was granted and has found the applicant has not maintained conditions set forth in prior approvals. Mr. Vella suggests a condition that requires compliance with previous conditions.

Andrew Friedman was sworn in as a representative of the property owner and advised the refuse is picked up as guided by the tenants' needs. They will comply with Ordinance regulations.

Mr. Cullen further expressed concern with the security lighting mounted on the building.

John Dolan, 19 Village Green Court, was sworn in and offered comments related to the dumpster smell and the lack of a buffer. He also has lights that shine in his window at night. He requested medium sized pine trees that will max out at 20 – 30 feet. Ms. Citrano suggested review of buffer to be subject to review and approval of the Township's Landscape Architect.

Mr. Hinckley advised the Board has reached their 10:00 pm cut-off. Board members indicated they would like to continue.

Mr. Dolan offered photos, marked O-1 through O-6.

Dan Olore was sworn in and offered comments indicating he is not in favor of the application.

Mr. Vella advised this application is being carried to June 26, 2023, at 7:00 pm. No further notice will be required.

Board members discussed adjourning for the evening and carrying the last application however Mr. Steib advised he can present his case in less than a half hour.

#2022-021, William & Maria Hemberger, Block 644, Lot 2, 120 Evergreen Terrace, Application for Bulk Variances – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. He further reviewed the exhibits that were previously marked: Architectural Plans for 120 Evergreen Terrace, consisting of seven (7) sheets, prepared by Robert A. Hazelrigg & Associates, Architects, dated September 16, 2022 was marked as Exhibit A-1. A Survey for Block 644, Lot 2, consisting of one (1) sheet, prepared by Thomas Craig Finnegan Land Surveying, LLC, dated July 1, 2022 was marked as Exhibit A-2. The Technical Review memo of our Planning Director was marked as Exhibit ZB-1.

Michael Steib, Esq., appeared on behalf of the applicant and explained that the applicant is seeking approval for a home addition.

William Hemberger was sworn in as the property owner. He explained that he was born and raised in that home since 1955. When his mom passed, he and his wife purchased the home and moved back to town. The original configuration is not practical for modern times, especially with six grandkids. Mr. Hemberger described the home addition and roofed porch. Mr. Hinckley questioned the size of the neighboring homes. Mr. Steib advised the Planner would have that information.

Thomas Lavin was sworn in and accepted as an expert Architect. Mr. Lavin explained the home size is consistent in size and material with the other ranch-style homes in the neighborhood. The neighborhood is made up of ranches and split-level homes.

Mr. Hinckley advised he wants to know the sizes of the neighbors' homes.

Barbara Ehlen was sworn in and accepted as an expert Planner. An aerial photograph was marked as Exhibit A-4. Ms. Ehlen reviewed the home sizes of the neighboring homes, noting there is no uniform setback line. A subdivision map entitled "Sunny Acres" was marked as Exhibit A-5. Ms. Ehlen noted that Evergreen Terrace was previously Bunny Place. She noted that the lot size is consistent with other lots in the neighborhood. She explained her role in reviewing the application and advised that the variance relief can be granted under the C-1 and C-2 criteria of the MLUL. The request is for a small addition in the front of the home. There is no negative criteria as part of this application and there will be no impact on the zone plan.

Mr. Hibell asked for clarification on the size of the addition. Ms. Ehlen advised the proposal is for 300 square feet, however only 200 square feet will be visible as the remaining space will be in the expanded basement area.

Ms. Citrano advised that one front-yard setback had been granted for a stoop overhang in the area, but no other variance relief on file. She disagrees with Ms. Ehlen's opinion related to the

impact on the zone plan. The lot is undersized and while allowance is granted for undersized lots, the property is currently maxed out in terms of coverage.

Mr. Steib advised that the applicant agree to remove the patio adjacent to the garage to offset the coverage. Mr. Vella explained that the applicant would then comply with coverage and is now just seeking a front yard setback variance.

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

Mrs. Bouw advised that the existing homes conform and she is concerned with setting precedent. A garage and a family room were previously added to this home. Mr. Hibell agreed.

Mrs. Sheridan disagreed and stated she doesn't see the whole neighborhood coming out to add on to the front of their house. Mrs. Rogers agreed.

Mr. Wrede stated that they have granted similar requests in the past.

Mr. Vella advised that if the Board were to take a favorable action, the following conditions would be applied: reduction in paved area to remove coverage variance and grading plan review by the Township Engineer.

Mrs. Rogers added that she does not see this causing a detriment to the zone plan and there are no neighbors coming out against this.

Mr. Wrede agreed and stated that the applicant is adding vitality to the neighborhood. Living conditions have changed drastically over the years and this is a minimal request.

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

Roll Call:

Ayes: Wrede, Rogers, Sheridan

Nays: Bouw, Hinckley, Hibell, Bane

Mr. Vella noted that the motion failed and the Board must now offer a motion to deny.

Mr. Hinckley expressed concern with rushing applications and advised that next time he will make the decision as Chairman.

Mr. Steib expressed concern with being bumped to last of the evening.

Mr. Vella suggests carrying the application to June 26th in order to address the concern of being rushed, since there was no formal motion to deny. This application is carried to June 26, 2023 at 7:00 pm with no further notice required. Mr. Steib granted an extension of time in which the Board has to act through July 31, 2023.

Mr. Bane indicated concern with having a set time to leave.

Mr. Vella suggested everyone bring their calendar to the next meeting to discuss some special meeting dates to clear the calendar.

EXECUTIVE SESSION

None

ADJOURNMENT

MR. BANE OFFERED A MOTION TO ENTER BACK INTO REGULAR SESSION AND ADJOURN THE MEETING AT 10:51 PM, SECONDED BY MRS. BOUW. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte

Board Secretary