

# TOWNSHIP OF MIDDLETOWN

## Zoning Board of Adjustment and Appeals

1 Kings Highway  
Middletown, NJ 07748-2504

JAMES HINCKLEY  
Chairman



Organized December 14, 1667  
"Pride in Middletown"

AMY H. SARRINIKOLAOU, P.P., A.I.C.P.  
Director of Planning

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### ZONING BOARD MEETING MINUTES JULY 26, 2021

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 July 26, 2021.

Vice-Chairman Bouw called the meeting to order and read the following notice:

The Notice Requirements provided for the Open Public Meetings Act have been satisfied. The Middletown Zoning Board published notice in the Two River Times on July 8, 2021. The Board also notified the Independent and the Star Ledger of the change on June 29, 2021. Notice of the meeting was filed with the Township Clerk and posted in Town Hall on January 26, 2021. Notice of the meeting change was posted in Town Hall on June 29, 2021.

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. Hibell, Mrs. Sheridan, Mr. Bruncati

Also present: Erin Uriarte, Board Secretary

Absent: Mr. Hinckley, Mr. Zaccardo, Mr. Truscott, Mr. Bane

A salute to the flag followed.

#### **ADMINISTRATIVE MATTERS**

**Approval of Meeting Minutes – June 28, 2021**– MR. HIBELL OFFERED A MOTION TO APPROVE THE JUNE 28, 2021 MINUTES, SECONDED BY MRS. SHERIDAN. ALL ELIGIBLE MEMBERS VOTED IN FAVOR BY VOICE VOTE.

**Payment of Vouchers** – MRS. BOUW OFFERED A MOTION TO APPROVE THE PAYMENT OF VOUCHERS FOR JULY 26, 2021, SECONDED BY MR. WREDE. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

#### **RESOLUTIONS**

**#2021-005, Carole Yacus, 107 Murphy Road, Block 557, Lot 2, RESOLUTION GRANTING BULK VARIANCE APPROVAL**– MR. HIBELL OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. WREDE.

#### **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

Roll Call:

Ayes: Wrede, Bouw, Hibell, Sheridan

Nays: None

**OLD BUSINESS**

None

**NEW BUSINESS**

**#2021-006, Gass/Roskowski, 23 Briarcliff Place, Block 234, Lot 6, Application for Certificate of Pre-Existing Non-Conforming Use – THIS APPLICATION WAS CARRIED TO AUGUST 23, 2021 – APPLICANT TO RE-NOTICE**

**#2021-007, Phair/Kugelmann, 36 East Twin Road, Block 773, Lot 1, Application for Bulk Variance – Mr. Vella advised the notices are in order and the Board has jurisdiction to hear this matter. The following exhibits have been pre-marked:**

Boundary and Topography Survey for Joan M. Kugelmann and Arthur P. Phair, consisting of one (1) sheet, prepared by Landmark Surveys, dated March 16, 2021, last revised March 23, 2021 was marked as Exhibit A-1. Variance Site Plan 36 East Twin Road, consisting of three (3) sheets, prepared by East Point Engineering LLC, dated March 29, 2021 was marked as Exhibit A-2. Property Modification Approval of Monmouth Hills, dated January 27, 2021 was marked as Exhibit A-3. Middletown Landmarks Commission approval was marked as Exhibit A-4. A stormwater Management Report, prepared by East Point Engineering, LLC, dated May 4, 2021 was marked as Exhibit A-5. An Aerial Photo of the Subject and surrounding properties, prepared by Beacon Planning was marked as Exhibit A-6. A photo board with six photos, prepared by Beacon Planning was marked as Exhibit A-7. The Planner's Technical Memo was marked as Exhibit ZB-1.

Michael Steib, Esq. appeared on behalf of the applicant, Dr. Phair and Mrs. Kugelmann who own 36 East Twin Road. The property is presently developed with a two-story, three-bedroom, single-family residential dwelling with an attached one story, two-car garage, driveway and associated walkways. He explained that the applicants propose to construct a 578 sq. ft. two-story addition to the rear of the home and add a second story over the existing garage that will create additional living space on the first floor and provide two additional bedrooms on the second floor. The applicant will also be removing 578 sq. ft. of the existing driveway and restoring it to pervious surface in order to maintain the existing lot coverage. They will also be updating the railroad tie retention wall and replacing it with a new structure. The applicant has received approval of the proposed improvements from the Monmouth Hills, Inc. Board of Trustees and from the Middletown Township Landmarks Commission.

With one exception, none of the proposed will exacerbate existing nonconformities or create new variances. The exception is that the streets in the Monmouth Hills subdivision, of which this property is a part, are not improved to municipal standards.

Ordinance Section 540-504A of the Ordinance provides that "Every principal building shall be built upon a lot with frontage upon a public street improved to meet the Township requirements ... unless relief has been granted under the provisions of N.J.S.A. 40:55D-36. Consequently, the Zoning Officer has determined that a variance for the addition is required pursuant to Section 540-504A of the Township Ordinance and N.J.S.A. 40:55D-35 and 36 of the Municipal Land Use Law. The property is located in the R-45 Zone District which permits single-

family residential homes with associated accessory structures. The property has the following existing nonconforming elements which will remain unchanged:

- Lot area of 15,356 sq. ft. where 48,375 sq. ft. is required.
- Lot frontage of 155 ft. where 200 ft. is required.
- Buildable lot area of 15,356 sq. ft. where 30,000 sq. ft. is required.
- Front yard setback of 10.1 ft. where 50 ft. is required.
- Rear yard setback of 27.1 ft. where 50 ft. is required.
- Lot coverage for all improvements of 26.7% where 25% is the maximum permitted.

Brent Papi was sworn in and accepted as an expert Engineer. Mr. Papi described the property location and surrounding areas. The entire roadway network from Route 36 is unimproved and has been existing since the early 1900's. The property has an existing driveway off East Twin, which is 18 feet off the property line. The existing wall along the driveway is in sever disrepair so they are proposing the update that wall with a new structure. They are also extending the wall to address drainage issues. The new wall will be 10 feet off the property line to accommodate the underground recharge system, which is being installed voluntarily to protect the neighbors to the rear. The soil in this area has great infiltration rates and they will have a net reduction in run-off due to the proposed system. Holly trees are proposed for extra screening as well. The new wall will also contain a safety fence. A discussion was held regarding the height of the fence and the wall. Mr. Vella noted that fences associated with retaining walls must be setback 15 feet from the property line. Mr. Papi explained that they are trying to protect the neighbor's amenities from water flow by installing the underground system and new retaining wall. All run off will drain from a trench in the rear of the property rather than onto the neighbor's property as it currently does. The applicant does intend to get grading plan approval from the Township as well and Freehold Soil Certification is not required. The proposed fence is a requirement of building code, due to the drop from the wall. The proposed plan is a major enhancement to what currently exists. Mr. Papi added that they have received approval from the Landmarks Commission as well as the Monmouth Hills Association. Vice-Chair Bouw noted the stringency of each of those groups.

Andrew Janiw was sworn in and accepted as an expert Planner. He referred to the aerial photo, with the property outlined in red and noted that the roadway dates back to 1895. As the area is historic in nature and the intent is to maintain the character of the roadway, they are requesting the variance for developing on an unimproved roadway. The existing non-conformities are not being exacerbated by this plan and is characteristic to what exists in the neighborhood today. The Master Plan recognizes the historic nature of the area, in that the circulation plan even calls for preservation of the gravel roadway system, therefore the variance can be granted under the hardship criteria. The application is consistent with the Master Plan, as explained and advances the purposes of the Municipal Land Use Law.

Mr. Janiw referred to exhibit A-7 to point out the location of the existing timber retaining wall, noting that it is in severe disrepair. The trees that are not in great condition will be removed and new Holly trees are proposed at the base of the new retaining wall. He added that the plan promotes conservation of a historic site, that will benefit both the homeowner as well as the adjacent neighbor. The current lack of a safety fence is a hazard that is being rectified. He added that the retaining wall variance could also be granted under the C-2 criteria, as it is a

better design alternative than meeting ordinance requirements. The geo-grid of the wall will be enhanced and will help to maintain the durability of the structure. The drainage system is not required however it will be a huge benefit to the owners and neighbors.

Mr. Steib advised he has no further witness this evening. This is a straight forward application. The Township does not intent or want the roads in this neighborhood to be paved. The retaining wall needs to be replaced and the system proposed will help the neighborhood as a whole, as the run-off will now be directed to a trench rather than onto the neighbor's pool area.

Mr. Hibell asked if the Fire Advisory Board has given approval. Ms. Sarrinikolaou advised that it will be a condition of approval.

Vice-Chair Bouw opened the hearing to members of the public who wish to ask questions or make comments, however no one appeared. Mrs. Bouw offered a motion to close the public portion seconded by Mr. Wrede.

Mr. Vella noted that if the Board should act favorably on this application, the following conditions will be included: Fire Department Approval, Grading Plan Approval, Approval from the Township Engineer in regard to the structural wall, outside agency approval and a fence variance to be added to the requested variances.

Vice-Chair Bouw advised that she feels the applicant did a good job to protect the neighbors even though it was not required and she feels that is very honorable

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

Roll Call:

Ayes: Wrede, Bouw, Hibell, Sheridan, Bruncati

Nays: None

Vice-Chair Bouw discussed the meeting format, in that some members are not vaccinated and are unable to wear masks, as the Township requires masks for people who have not received the COVID vaccine. She asked if the Board would be able to go back to hybrid meetings, with some Board members present virtually. Mr. Vella explained the law does not allow for the hybrid meetings; it either has to be fully in-person or fully virtual.

**EXECUTIVE SESSION** – MR. WREDE OFFERED A MOTION TO ENTER INTO EXECUTIVE SESSION AT 7:59 PM TO DISCUSS PENDING LITIGATION, SECONDED BY MR. HIBELL. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

The Board reconvened into Regular Session at 8:14 PM

### **ADJOURNMENT**

MR. HIBELL OFFERED A MOTION TO ADJOURN THE MEETING AT 8:15 PM, SECONDED BY MRS. BOUW. ALL MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Prepared by:



Erin Uriarte, Board Secretary