

Chm. Stephen T. Gionfriddo, Vice-Chm. Cos Giuffrida, Sec'y
Louis A. Carta, Comm. Steven J. Leinwand, Comm. Vincent J.
Loffredo, Comm. Rose Sbalcio, Alternates: Comm. Paul Bixby,
Comm. Stephen Gadomski and Comm. Thomas E. Hutton, Jr. COMMISSION
MEMBERS
PRESENT

Mayor Sebastian Garafalo, Ex-Officio, Dir. of Public Works
Salvatore Fazzino, Ex-Officio, Comm. Sebastian Passanesi MEMBERS
and Comm. Thomas J. Serra. ABSENT

Comm. Stephen Gadomski acted for Comm. Sebastian Passanesi. ACTING
MEMBERS

Dir. George Reif, Hope Kasper and Patricia Michnowicz. STAFF

Phillip Bauer, Engineer, Public Works, Lucas Held, Reporter,
Middletown Press, and 23 members of the audience. OTHERS

CHM GIONFRIDDO

I would like to call the meeting to order. We have six of
seven regular members here, so in place of Comm. Passanesi
we will have Comm. Gadomski serving as a regular member.

DIR REIF

Could he sit over there?

CHM GIONFRIDDO

If he wishes. Otherwise, I'm...

DIR REIF

One of the reasons is that the people taking notes like to
be able to see who's talking.

CHM GIONFRIDDO

That's exactly what's wrong with this setup. (Multiple spea-
kers) We'll start the Public Hearing and we'll ask the
Secretary to read the Legal Notice.

SEC'Y CARTA

THE MIDDLETOWN PLANNING AND ZONING COMMISSION WILL HOLD A
PUBLIC HEARING, JANUARY 11, 1984, 7:00 P.M., IN THE COUNCIL
CHAMBER, MUNICIPAL BUILDING, deKOVEN DRIVE, MIDDLETOWN,
CONNECTICUT, to consider the following:

Item 2.1 Proposed special exception to permit a rear lot in PROPOSED SE
an R-1 zone located on the west side of Tryon Street REAR LOT,
for applicant James W. Clohosey. TRYON ST.
J CLOHOSEY
S83-24

CHM GIONFRIDDO

OK Jim. Are you planning to make a presentation, Jim? You are
obviously, right? OK. Just for the record, this Legal Notice
appeared in The Middletown Press twice, Dec. 30th, '83 and
Jan. 6th, '84.

JAMES CLOHOSEY

I'm James Clohosey, of 136 Tryon Street. I'm here asking for approval of a rear lot under special exception. This lot is located on the west side of Tryon Street.

CHM GIONFRIDDO

George, is that map up on the board...

DIR REIF

That's the presentation that Jim provided. He may want to go through the list of requirements.

CHM GIONFRIDDO

Well, yeah, that's what I meant. I would think that for the sake of the record, Jim, maybe you want to go through...

JAMES CLOHOSEY

OK. Would you read the requirement and I'll tell you how I comply with it, each item.

DIR REIF

OK. A is located in an R-1 zone. The use when it's eventually used, it can only be used for a single family dwelling, residence. And the area of the lot can't be less than forty thousand(40,000) square feet excluding the access strip. Why don't you tell them what it is though. You've got a figure there.

JAMES CLOHOSEY

It's 1.2 acres, which is way over 40,000 square feet, approximately fifty or fifty-two thousand (52,000) square feet.

DIR REIF

OK. You have to have an access strip in the same ownership as the rear lot, and it can't be less than twenty-five (25) feet of frontage on a city street.

COMM LEINWAND

Mr. Chairman?

CHM GIONFRIDDO

Yes Mr. Leinwand?

COMM LEINWAND

I'm not sure we've got to go through A through M.

CHM GIONFRIDDO

I agree.

COMM LEINWAND

The Director has already gone through it and the Public Works Department has done it. We get sort of...

CHM GIONFRIDDO

I agree with you. I don't think that that's necessary either.

CHM GIONFRIDDO (Continued from Page 2)

Is there anything in addition to the presentation of the map and what you've already stated that you'd like to present for the record?

JAMES CLOHOSEY

No, I don't think so.

CHM GIONFRIDDO

Does any of the Commissioners have any questions? Commissioner Leinwand?

COMM LEINWAND

There's a question of the undergrounding of utilities there. How do we work that practically? (Multiple speakers)

DIR REIF

You recall during the discussion, during the year that we've been discussing this, there are at least two stages in any process that creates lots. One is the process of creating lots, which is what you're doing here tonight, and the second part is the actual development of the lot. Half of these things, or at least a third of them, only apply to the development. You know Jim could stand there and say I'm going to put a single family dwelling unit there, but someone's going to buy it and may try to put something else. So you've got to catch them the next go round. The next go round is the site plan review before they get a building permit.

COMM LEINWAND

Can you rest assured that the internal process will now be such that they'll get a new box on new forms that will check rear lots and automatically shift things over to you from the Building Department?

DIR REIF

Every site plan that comes in, every building permit now has a system goes, comes over. But it's very important. There was a time that was not true. It's one of the reasons we're catching a lot of lot problems.

CHM GIONFRIDDO

Don't you think that this proposal meets, at this point, every one of the conditions that it can, at this point meet. Correct?

DIR REIF

Yes. As far as I know. We were going to go through them but I guess we're not going to go through them so, I know of none...

(Tape malfunction)

A motion and second by Commissioners Loffredo and Giuffrida, the Commission unanimously voted to close the Public Hearing on this item and move it to the new business portion of the meeting.

Item 2.2 Proposed resubdivision to create an additional lot in an R-1 zone located on Sand Hill Road and Millbrook Road for applicant/agent Mary Carta/T. Jackowiak

ACCEPTED WITHDRAWAL RESUBDIVISION SAND HILL & MILLBROOK M. CARTA S83-22

CHM GIONFRIDDO
...We'll move on. I see Item 2 has been withdrawn, so I guess we move to item 3.

COMM LEINWAND
You want an action to that affect, Mr. Chairman?

CHM GIONFRIDDO
You want to make a motion to accept the withdrawal? I don't know that we need to since it's...

DIR REIF
It's a nice idea. We can have it in the minutes.

COMM LEIKWAND
I move that we accept the withdrawal of the proposed resubdivision on Millbrook and Sand Hill Road.

COMM LOFFREDO
Second.

CHM GIONFRIDDO
The motion is seconded. All those in favor? How many opposed?
The motion is carried. We'll move to Item 3. (Vote was unanimous)

SEC'Y CARTA
Item 2.3 Proposed resubdivision to permit a rear lot as a special exception in an R-1 zone located on the east side of East Street plus one regular lot for applicant/agent Herman C. and Marion H. Demerchant/T. Jackowiak

PROPOSED RESUBDIVISION REAR LOT EAST ST DEMERCHANT SE83-14

ATTORNEY WILLIAM HOWARD
Mr. Chairman, I'm Attorney William Howard and I would ask that we could pass that now. Mr. Demerchant is apparently delayed and we would like to have him present.

CHM GIONFRIDDO
Fine We'll move on to other items and come back. Let's move to Item 4.

SEC'Y CARTA
Item 2.4 Proposed resubdivision to create an additional lot in an R-1 zone located on the south side of Bow Lane for applicant/agent Helena M. Wilson/ Atty. Ralph Wilson

PROPOSED RESUBDIVISION BOW LN H WILSON S83-21

ATTORNEY WILSON

As indicated, my name is Ralph Wilson. I live at 371 South Main Street in Middletown and this is the lot that we had spoke about in December. At that time I pointed out that it's being cut out of a thirty-three (33) acre piece belonging to my mother. It is a piece that I will be building on myself. The requirements out in this area, it's an R-1 zone, there's no water or sewer, you're required to have two hundred (200) foot frontage with at least forty thousand (40,000) square feet. This piece has two hundred and sixty-six (266) plus square foot and it's 2.23 acres. There's a small piece of wetlands as indicated on the map. And as indicated at the last meeting, there's no activity planned in this wetlands. Again, I will point to the three test holes that were done by the Health Department. The house will be going in front of those test holes. Bow Lane is up toward the top of the map if you have it in front of you. So, there is no activity even remotely close to this wetlands area. In terms of testing, the Health Department tests have disclosed, the deep hole test disclosed no water or ledge rock and the percolation test was 1 inch per twenty minutes. We're requesting that the Planning & Zoning Commission approve this as a building lot and I would request that it be done as soon as possible as it's feasible for the Commission in view of the fact that I'll be meeting with some contractors soon, and I hope to get started this Spring in building it. Are there any questions?

CHM GIONFRIDDO

Do the Commissioners have any questions? Thank you, Ralph.
Are there any, Commissioner Leinwand?

COMM LEINWAND

I'm just trying to understand what I do with the Health Department comment. In approving the subdivision, it creates two lots. Granted Parcel #1 is the only one that can be built on, but Parcel #2 is left there and it's not a building lot. Do we just ignore that?

DIR REIF

Well, that's the one that's thirty-three acres.

THEODORE JACKOWIAK

May I comment? Parcel #2 is the home lot of Mrs. Wilson. There is presently, the residence is on that lot, which has its own septic system and own well.

DIR REIF

On the thirty-three acres?

T JACKOWIAK

On the thirty-three acres.

DIR REIF

So they're entitled to one house and they've got it?

T. JACKOWIAK

Yes. They're entitled to one house and they've got it. We couldn't put another one on until we come for another resubdivision or something to that affect.

DIR REIF

If I can pick up some more on that? I'm the great advocate of not approving things unless there's an approval, but for thirty-three acres, with all those other lots that are there, even I would say that probably could make it.

CHM GIONFRIDDO

Are there any further questions? Is there any member of the public who wishes to speak in favor of this proposal? Anyone wishing to speak against? If not, we'll close the public hearing on Item 4 and move to Item 5.

COMM LEINWAND

Mr. Chairman?

CHM GIONFRIDDO

Commissioner Leinwand?

COMM LEINWAND

Could I ask George if he sees any reason why this shouldn't be perfunctorily included tonight?

DIR REIF

No I don't see any reason. I think it would be a good move.

COMM LEINWAND

I would move that per Attorney Wilson's request, it be placed as Item 6.8 on the new business agenda.

CHM GIONFRIDDO

There's a motion. Is there a second?

COMM SBALCIO

Second.

CHM GIONFRIDDO

Is there any discussion? If not, all those in favor? Those opposed? (Vote was unanimous) OK. That will be Item 6.8. OK, we'll move to Item #5.

SEC'Y CARTA

Item 2.5 Proposed Text change in the Zoning Code to add PROPOSED TEXT
as a permitted use in the Interstate Trade zone CHANGE CONTINUED
the following: Retail sales distribution faci- CARE INTERSTATE
lity for the processing of orders for and prepa- TRADE ZONE
ration of pharmaceutical and related products 283-12
in the health care field but not to include
sale and delivery of product to customers on
premises. Applicant/agent American Continue Care/
Atty. Dean Thomasson

CHM GIONFRIDDO

If I may, before we go into this, I'd just like to explain how this came about. As you may recall, at the last Commission Hearing I was requested to speak to Attorney O'Neill as to whether he felt what we had proposed at the last Commission meeting, that is, as to approving the use of the pharmacy in that zone was appropriate. He did not and he suggested an approach of this nature as a means of resolving any potential problem there may be with the code, by clarifying the language. And that's how we came back here this evening. So, with that background, I would turn it over to Atty. Thomasson.

COMM LOFFREDO

Excuse me. A point of information. This proposed text change...

CHM GIONFRIDDO

He did not draft the language.

COMM LOFFREDO

Who drafted the language?

CHM GIONFRIDDO

Attorney Thomasson drafted the language.

COMM LOFFREDO

Has this been reviewed by...

CHM GIONFRIDDO

I don't know that the City Attorney reviewed the language. But, this is the general nature of what he and I discussed. What he suggested was a very narrowly framed permitted use in the zone that would allow this particular type of use but not open the door to all retail sales. And that's what I conveyed to Atty. Thomasson and that's what he's presenting here. Atty. Thomasson?

ATTY THOMASSON

Good evening. My name is Dean Thomasson. I'm with the law firm of Jozus & Milardo in Middletown. On my right is Donald Harry, Branch Manager for American Continue Care. We are here this evening to propose an amendment to the Zoning Code of Middletown. The reason for making this application is because American Continue Care, to conduct its business needs a retail pharmaceutical license, and the reason it happens to be retail is because the sales are to the ultimate consumer. Although the business itself, the transfer of the product is done at the consumer's residence. The conflict between the need for the Pharmacy Commission to have a signature from the zoning official or someone else knowledgeable with the rules, he could not write out and say that this is a permitted use because in the Interstate Trade zone retail sales are not permitted. Although this is a sale to an ultimate consumer, there is no pedestrian traffic or walk-in traffic. That kind of use, we feel, is appropriate for the neighborhood out there and appropriate for the zone.

ATTY THOMASSON (Continued from Page 7)

The description of the zone from your rules: "The zone is designated for development of certain industrial and business uses in close proximity to the Interstate Highway." The nature of his business covers Western Massachusetts, portions of Vermont and upstate New York. That's his distribution area and the access to the expressway is very important. And it's my opinion that this use is compatible with the classification of the zone and compatible with the neighbors around him. If there are any questions, I'm sure we'd be happy to attempt to answer them.

CHM GIONFRIDDO

Any of the Commissioners have any questions? Commissioner Loffredo?

COMM LOFFREDO

When you look at our Zoning Code and the proposal of the amendment, where specifically would this amendment go in the Code?

ATTY THOMASSON

It would go under Article VI, the "Use Schedules", Section 61 - "Business Zones, Industrial Zones and Other Non-Residential Zones Use Schedule". And it would be under the permitted uses, 61.01 and then whatever section...(inaudible)

COMM LOFFREDO

Currently, there's nothing in the Code that relates or conflicts to this, to your knowledge?

ATTY THOMASSON

I could find nothing in there. There's laboratories and other drug chains. It's so close we could have almost argued to fit in one of these other things, but it's neater and cleaner to come in with the amendment. So that's what we're here to see tonight.

CHM GIONFRIDDO

Are there any other questions? Commissioner Carta?

SEC'Y CARTA

It's not by way of a question, actually. I'm comfortable with the concept. And I notice, it's not generated from our staff, my question to George would be, are you comfortable with the exact way that this is worded and how it will fit in?

DIR REIF

People can make a proposal and they did.

SEC'Y CARTA

But actually, what I'm asking you is for your judgement or evaluation as to the wording.

DIR REIF

This reminds me very much of 61.01.42, which deals with the reconditioning of diesel engines, which was a problem several years ago. That was inserted to accommodate one use out there and so I imagine this will never get another use.

SEC'Y CARTA

This essentially covers what was my concern last time, and I believe Commissioner Loffredo's concern. That is why I wouldn't vote for it the last time. This handles it. It does not open the door, but actually takes care of your specific need.

ATTY THOMASSON

We drafted it as narrowly as possible to get this particular business.

SEC'Y CARTA

I have no problem with it as long as our staff is...

DIR REIF

It's back to the Commission. If it wants to allow that use, you've got the opportunity without destroying the basic concept of the zone.

CHM GIONFRIDDO

Are there any other questions?

ATTY THOMASSON

I would like to request, if possible, if we could have a decision this evening?

CHM GIONFRIDDO

Is there a motion to put this on as new business?

COMM LOFFREDO

Motion.

COMM LEINWAND

Second.

CHM GIONFRIDDO

There's a motion and a second. Any discussion? If not, all those in favor? (Vote unanimous) OK, this will be Item 6.9. Thank you. Is there anyone in the public who wishes to speak in opposition to this proposal? Or in favor of this proposal? Ok, we'll close the Public Hearing on Item 5 and we'll move to Item 6.

SEC'Y CARTA

Item 2.6 Proposed special exception to permit a Home Occupation (food preparation) in an R-1 zone located at 141 Mile Lane for applicant/agent John J. Milardo

PROPOSED SE
HOME OCCU-
PATION
MILE LN
J MILARDO
H156

JOHN MILARDO

I'm John Milardo. I reside at 141 Mile Lane, and I'm asking approval for a special exception for a home occupation. If there's any questions I can answer?

CHM GIONFRIDDO

Do any Commissioners have any questions? Commissioner Leinwand?

COMM LEINWAND

Let me ask a question. There are no employees and you will be using one small part of the house.

JOHN MILARDO

Well, as of now there's a proposed addition to the house of the living quarters, and this would be down, used in the basement downstairs on a new foundation that will be added on to the house.

COMM LEINWAND

Will people be going there to pick this stuff up or...

JOHN MILARDO

No, it will be delivered. It will be delivered by me and I'd be using a vehicle that I now have, so it wouldn't be any special type of van or anything.

COMM LOFFREDO

Do you know what zone you're in?

JOHN MILARDO

R-1, I'm pretty sure.

COMM LOFFREDO

How close are you to the I-2 zone? How far away is it?

DIR REIF

OK now, if he wasn't in an R-1 zone he wouldn't be here.

COMM LOFFREDO

Right. But in relationship to the I-2 zone in that area. Do you border that?

DIR REIF

He's down the street. You're on Mile Lane. The I-2 zone starts at Newfield Street.

JOHN MILARDO

Yes, I'm about one hundred fifty feet (150) from Newfield Street.

CHM GIONFRIDDO

Are there any other questions? Commissioner Carta?

SEC'Y CARTA

I'd like a better description. The last time I. My recollection is, it's been awhile, and what I understood is that you have one of these vans that delivers food on jobs and so on?

JOHN MILARDO

No. What it would be, it would be more or less like a catering business for parties or small banquets and that type. I have a station wagon now and would be only using that. It wouldn't be any type of a van or truck. The food, they'd be in heated trays.

SEC'Y CARTA

There was question as to the addition showed more square footage, in fact.

DIR REIF

Three hundred feet (300) is the maximum.

JOHN MILARDO

Right. And I accepted the three hundred (300) square foot. I thought it was amended at the last meeting.

SEC'Y CARTA

Further, my recollection was that you are putting on the addition in order to upgrade the business, in order to handle the...

JOHN MILARDO

Well what it's going to be, it's going to be an addition to the living quarters upstairs. And if I can get the approval for this, I'm going to have the foundation area, it's going to be a full basement and I'll use that for the business. It will be in the basement area.

SEC'Y CARTA

Is the business presently being conducted there now? You don't do anything there now?

JOHN MILARDO

No.

SEC'Y CARTA

That's all the questions I have. I have a comment on it, however.

CHM GIONFRIDDO

Is there any other questions? I would think probably the comment would be if we put it on the item for discussion, for new business. That would be the time for comments.

SEC'Y CARTA

Yes.

CHM GIONFRIDDO

Thank you, John. Is there a motion to consider this this evening?

COMM SBALCIO

I'll move.

COMM LOFFREDO

Second.

CHM GIONFRIDDO

There's a motion and a second. Any discussion? If not, all those in favor? (Vote was unanimous) Ok, that'll be Item 6.10. Is there anybody in the public who wishes to speak in favor of this proposal? Is there anybody who wishes to speak in opposition? We'll close the Public Hearing on Item 6. Bill, are you ready on Item 3?

ATTY HOWARD

No, I'm not.

CHM GIONFRIDDO

What I'll propose then is that we temporarily close the Public Hearing and reopen it when Bill's client is here.

Public Hearing temporarily closed at 7:25 P.M.

Public Hearing reopened at 8:10.

CHM GIONFRIDDO

We'll reopen the Public Hearing and go to Item #3.

SEC'Y CARTA

Item 2.3 Proposed resubdivision to permit a rear lot as a special exception in an R-1 zone located on the east side of East Street plus one regular lot for applicant/agent Herman C. and Marion H. Demerchant/T. Jackowiak

PROPOSED RE-SUBDIVISION
EAST STREET
DEMERCHANT
SE 83-14

ATTY HOWARD

Mr. Chairman, I might add, what you have before you is a more current map and a difference from the original map submitted, in that it shows the sewer on East Street, which is available for connection. The proposal here is submitted on behalf of not only Herman C. & Marion Demerchant, but also Mr. Richard Demerchant who's their son. It is Mr. Richard Demerchant who lives at 110 East Street, and that is the house depicted in the southwest corner of the map. For the purpose of this particular scheme is to cut that lot out and have it conveyed to Mr. Demerchant as his residence. Herman and Marion will then keep the balance that you see there, it's the 9.23 acres, and just very simply hold it as land. They have no development proposals for that land whatsoever at this time.

ATTY HOWARD (Continued from Page 12)

The zoning regulations do require a connection, in terms of water and sewer. As you can see, that can and will be made onto East Street from the residence. I understand from my client, there is a lateral for Sewer B which runs off of the sewer line and into the lot which was installed when the sewer was run up East Miner Brook. However, the East Miner Brook's sanitary, of course, will not be the object of the connection from this residence. You also note that the frontage on the remaining piece on East Street is 87.41 feet, thereby constituting the larger piece in the rear as a rear lot. In a technical sense, that area is also large enough to carry a road if that is the preferred development mode at some point down the line. As I say, there are no development proposals for that area and so, as a consequence, the Demerchants would like to reserve their options as to whether say it could be cut into two rear lots if that appears to be economically feasible, or further subdivided with the use of a road. And so, as a consequence, we can't present you with any concrete proposal concerning the 9.23 acre piece. The map does show a segment of wetlands. The thing I would like to emphasize is that with respect to this proposal, there is no activity which would encroach on that or there is nothing say in the words of the Inland Wetland Regulations which would constitute a regulated activity. We have requested Mr. Kuehn, who is in charge of the wetland segment, to comment on this and I understand he has today. And as I briefly looked at it, the gist of the comment is that he notes that there is no activity I believe that is going to go in the wetlands, and later on if there is, he'd certainly have to look at it. Are there any questions?

CHM GIONFRIDDO
Commissioner Carta?

SEC'Y CARTA

I need some clarifications. What your request on the Legal Notice asks for is one rear lot and one front lot. Now what I've just heard you ask for now is one front lot plus just that the other one is just a piece of land, not a lot. The two, what I've just heard are in conflict.

ATTY HOWARD

Essentially it ends up by being one rear lot. So you have to request some status for it and that's what we're doing.

SEC'Y CARTA

So you're asking for an approved rear lot?

ATTY HOWARD

What I'm saying is at some point, the further evolution of the land may be such that it makes more sense to subdivide it or it makes sense to make it into two rear lots at some point. What I'm trying to emphasize is that, as I understand it, there are no fixed plans for using that land at this time, which would raise development questions.

MR DEMERCHANT

The only thing we're trying to do right now is to cut off the piece with the house.

SEC'Y CARTA

That's clear to me. So, you're not asking us to approve the other one as a building lot, or are you? I'm still not clear.

MR DEMERCHANT

All right. Let me answer this way. I would like it to be whatever you want to do with it. The only part we're trying to do anything with now is just trying to get the part with the house.

SEC'Y CARTA

That's clear.

MR DEMERCHANT

What I understand is the only way we can do the part with the house is to get the rear lot, the rear portion, into a rear building lot. Am I correct or...

SEC'Y CARTA

No. Not so. It's not so. You can cut. Your front lot is fine. What I'm asking. Your front lot is fine, it looks like it's up to the code...

DIR REIF

You see, he doesn't have enough frontage for another lot.

SEC'Y CARTA

No, it doesn't. But that doesn't. That's fine. We can't stop him from doing that.

DIR REIF

Not if you call it a rear lot. You can't arbitrarily change your one hundred foot requirement.

SEC'Y CARTA

But that simply means that he has a piece of land that is not a lot.

DIR REIF

No, he doesn't. He has a lot...

SEC'Y CARTA

By my standards, he has a. If we approve the front lot, you wind up with a piece of land which at a later date you could get approved, as you said, for a rear lot, or in fact for a road accessing this piece of land for subdivision, but not for street front whole and complete lot on the street front. But it will fall under the other things. My only question, right now are you asking us to approve the nine acres as a building lot?

MR DEMERCHANT

No.

SEC'Y CARTA

Good. Clear.

ATTY HOWARD

Is it possible that we can move on this tonight?

COMM LOFFREDO

Question

CHM GIGNFRIDDO

Commissioner Loffredo?

COMM LOFFREDO

Is staff in agreement with this interpretation?

DIR REIF

No. Every lot, unless it's a rear lot, has to have in this zone a hundred feet of frontage, whether anybody says it's going to be a lot or not, and that's all there is to it. You have created a way to have a lot with less than a hundred feet. It can have as little as twenty-five (25) feet and you can call it a rear lot. That's why they are applying for a rear lot. You can't have lots with less than a hundred feet unless they're rear lots.

SEC'Y CARTA

But you can own the land. You can own any piece of land that has less than one hundred foot of frontage but not a lot.

DIR REIF

But this Commission can't involve itself in creating lots with less than a hundred feet unless it violates its own regulations.

SEC'Y CARTA

It's not a lot, George. It's not an approved lot.

COMM LOFFREDO

(Inaudible. Multiple speakers)

DIR REIF

He doesn't have any problems with the first lot. He meets all the requirements.

COMM LOFFREDO

OK. The first lot is where the house is.

DIR REIF

Once he makes the connections to the utilities.

COMM LOFFREDO

So he's got an approved...

DIR REIF

He's got a lot there that meets the requirements. The next lot doesn't have the hundred feet so the only option, and the reason they're here now and weren't here months ago, is because you didn't have the rear lot law.

COMM LOFFREDO

It is a rear lot?

DIR REIF

There doesn't seem to be any reason why it won't qualify for a rear lot. That's the only way it can qualify.

COMM LOFFREDO

The way the public notice reads, it's proper.

DIR REIF

That's right. And that's what they're asking.

CHM GIONFRIDDO

Commissioner Leinwand?

(Multiple speakers)

COMM LEINWAND

Let me ask you to share, Commissioner Carta, if he could share what his concerns are with that being a lot because it may lead to some questions I have for Attorney Howard.

SEC'Y CARTA

My concern is that, I wasn't listening to Attorney Howard. I'm not scrutinizing that piece of land as another approved building lot that's going to get a house on it. Now, if I were to do that, I would say it needs to go before Inland Wetlands because the driveway needs to get put across the wetlands. And, is it going to be two rear lots, therefore it needs a line down the center dividing the access. Is it going to be only one rear lot. It doesn't need one. And so on and so on. There's questions I would ask which I wouldn't bother asking if it's just a piece of land held by the owner which he will in a future time develop.

DIR REIF

Right now it's going to qualify as a rear lot. And because there is a state requirement that anybody that's proposing a subdivision to the Planning Commission has to get a report, they've gone to Bill Kuehn and he's written a report here speaking on behalf of the Inland Wetlands Agency. So they've covered that base. So what they're looking for is this front lot which does meet all the requirements and another parcel which meets the requirements of a rear lot. The only hangup in terms of time is the fact that the house has got to tie in with the utilities.

SEC'Y CARTA

George, could you read Mr. Kuehn's statement?

DIR REIF

Sure. It's addressed to the Planning & Zoning Commission, and it says: "It is my understanding that the Planning & Zoning Commission has before it a subdivision for land on the easterly side of East Street, and wishes to be advised of any Inland & Wetland impact.

DIR REIF (Continued from Page 16)

After reviewing the map, which at this point in time shows no plan for a house or other development, I cannot evaluate any development impact. However, the house is built between East Street and the East Miner Brook Wetlands System. It is likely that a sewer hookup would be out to East Street. If a structure is built across the East Miner Brook Wetlands, than any driveway through that area would have to allow for the passage of stormwater per the Inland Wetlands requirements. A sanitary sewer lies to the east of the wetlands system. It is unlikely that any sewer hookup would require a wetlands permit at the rear location. If you have other questions, please contact me, William N. Kuehn, Jr."

CHM GIONFRIDDO

George, I have one question. Is this the customary way, if something is to be referred to Inland Wetlands, is it always, and I have great respect for Bill Kuehn, but does he usually issue the reports for the Commission without bringing them before the Commission?

DIR REIF

Now that I do not know. I do not know the answer to that. There may be a representative here from the...

CHM GIONFRIDDO

Well I'm on it and I haven't had a meeting called yet.

DIR REIF

I do not know the answer to that. I, for instance, would not. I do not know the answer to that.

CHM GIONFRIDDO

I know, at least I would hope that if somebody came to you for an opinion, you would not be issuing opinions, expressing opinions for the Planning & Zoning Commission.

DIR REIF

You bet. Yes, you're right. I would not. However, this is what we have.

CHM GIONFRIDDO

Are there any other questions from any Commissioners?

ATTY HOWARD

Let me, just once again, put it in perspective in a sense of what we're really looking at. As George says, I guess perhaps we have to call the thing a rear lot because you have to call it something to fit it in. But the fact is, in an economic or functional sense, it is the remaining piece of land. And it's basically going to remain that until someone develops an idea as to whether it's going to be two rear lots, because clearly it can be, or further subdivision. Once you look down the line, given the area out there, it may be amalgamated with yet another piece and something else done with it.

ATTY HOWARD (Continued from Page 17)

But the basic orientation of the plan is to cut out the household parcel for Mr. Richard Demerchant. And that's why we're here.

CHM GIONFRIDDO

I just have a question I was going to ask of George. If this land was sold tomorrow with this lot approved like this, could somebody come in for a building permit?

DIR REIF

Yes. That's the point. They're entitled to, if you approve this to file approval after waiting for the utilities to be connected, they're entitled to use that land.

(Multiple speakers)

ATTY HOWARD

To get access, I mean almost anything you'd have to get a building permit, you would end up with a so called regulated activity. At which point then you're clearly in front of the Inland Wetlands again. In other words to get across it. If you intended to do something on the plot then you'd have to go back to them.

CHM GIONFRIDDO

Commissioner Loffredo?

COMM LOFFREDO

Just one question to the chair, to the proponents. Do you have a problem with the Commission approving what's been legally advertised as an approved subdivision with a rear lot?

ATTY HOWARD

I don't think we have any problem with that.

DIR REIF

I'd like to say once more. These people have been waiting. Mr. Demerchant has come by many months ago. We've been talking about this. This is a reasonable application of the rear lot concept. He's only asking for approval of what he has now. If he wants to come back later with something else, he's entitled.

CHM GIONFRIDDO

Commissioner Loffredo?

COMM LOFFREDO

I make a motion.

CHM GIONFRIDDO

There's a motion. Is there a second?

COMM GADGMSKI

Second.

CHM GIONFRIDDO

A motion and a second by Commissioner Gadowski. All those in favor?
How many opposed? (Vote was unanimous) This will be Item 6.11.
Anyone in the public wishing to speak in favor of this proposal?
Anyone wishing to speak in opposition? We'll close the Public
Hearing.

ADJOURNMENT 8:25 P.M.

ADJOURNMENT

Respectfully submitted,

Patricia Michnowicz, Transcribing Secretary

Stephen T. Gionfriddo, Chairman
Planning & Zoning Commission

Received at the meeting of _____