

Acting Chairman Steven J. Leinwand, Sec'y Stephen Gadowski, Comm. Ann Loffredo, Comm. William Pillarella, Comm. John Robinson, Dir. P.W. Salvatore Fazzino, Ex-Officio

COMMISSION MEMBERS PRESENT

Comm. Stephen T. Gionfriddo, Comm. Seb Passanesi, Mayor Sebastian Garafalo, Ex-Officio

COMMISSION MEMBERS ABSENT

Alternate Francis Patnaude acted for Comm. Stephen T. Gionfriddo; Alternate Richard Thompson acted for Comm. Seb Passanesi

ACTING MEMBERS

George Reif, Director, Nino Martucci, Planner, Hope Kasper, Admin. Sec'y

STAFF

Mr. Bill Negler, reporter, Middletown Press; Ms. Kerry Zabicki, reporter, WCNX; Ms. Carolyn Farrar, reporter, Hartford Courant; and approximately 115 members of the public

OTHERS

Acting Chm Leinwand

That takes us to Item 2: the public hearing, and I would ask the Secretary to read the legal notice.

Sec'y Gadowski

Legal Notice Middletown Planning and Zoning Commission Public Hearing ITEM 1. January 28, 1987 7:00 P.M., Council Chamber, deKoven Drive, Middletown, CT to consider: 1. The continued eight lot subdivision located on Westfield St. Applicant/agent John W. Kieft/T.F. Jackowiak. The above legal notice to appear in the Middletown Press twice: Friday, January 16, 1987, and Friday, January 23, 1987

ITEM 1. KIEFT SUBD ON WESTFIELD ST.

Acting Chm Leinwand

I believe that you have in your packets tonight another map of this particular subdivision. Ted, Dean.

Att. Dean Thomasson

Good evening. My name is Dean Thomasson. I'm an attorney; I represent McKutcheon and Burr on their application here and continued public hearing. As a result of the initial public hearing on December 10, certain questions were raised concerning completion of a perimeter boundary survey and a parcel possibly to be deeded to the Town. Ted Jackowiak has addressed these concerns and we've managed to get some maps to the Planning Staff for review. And I believe that, last report, we have addressed their concerns. The responsibility that we will be undertaking in this regard is to, after we've conveyed to the City the piece of frontage, we will do the grading as proposed, provide the sidewalks and sewers, and the City at whatever time they care to do any additional work, will do so at that time.

Acting Chm Leinwand
George.

Dir. George Reif

At the last session, remember one of the problems was how to establish

a lot for the several houses that have been built on Page 3...and of course Page 3 is not identified, but it's the last one in the pack....they do show a proposal for creating a rear lot for one of the houses, and the other house will have as its lot the bounds of the large parcel of land. So they've solved that problem. And they've also, as Dean has said, they've agreed to give the City a part of the property so that the...eventually, the street can be widened. They don't intend to widen it now. They will have to do the grading in order to make the lots work. As far as this could go would be preliminary approval because there is a lot of work to be done. They've got to put a sewer line in and that sort of thing before final approval.

Acting Chm Leinwand

I remember very clearly that we asked about the straightening of Westfield St. and this clearly shows that there's some land that can be done that way, but explain to me the process. If we approve this, they go ahead. They put the houses in, they put the driveways in, the driveway crosses what would be City land, and five years from now when the City decides that it in fact wants to straighten out Westfield St., we have to redo all these driveways and all these curb cuts and everything else. Correct?

Dir. George Reif

Well, that's why it's important to make sure that the developer does the grading now to...

Acting Chm Leinwand

Yeah, but it's still a significant expense to the City.

Dir. George Reif

Oh yeah. Oh, of course. Of course. Later.

Acting Chm Leinwand

Is there any reason why a developer that has the potential for so many additional lots on this particular parcel is not required to do Westfield St. as well? Or do we say that you will do Westfield St. at that point of which you have Tomasso or someone else in here to do all the interior roads.

Dir. George Reif

Well, we did discuss that. I'm sure they'd like to discuss the fact that they don't want to do Westfield St.

Acting Chm Leinwand

Oh, I'm sure they don't.

Dir. George Reif

Well, if you want them to do it, maybe we can make it happen.

Att. Thomasson

The drawing as shown, the proposed contours, the way they match into the existing contours...you can see that we're proposing to do all the work from, say, the front of the house...imagine yourself driving out of the garage or something like that...we'll be doing the cutting and excavating at the front of the property. We'll be installing the sidewalk, and that

will be at grade with the City road. The only thing that would be disturbed after the sidewalk was in, and then an apron to the road would be, is if the town were to widen the road, the apron would be shortened. Any earthwork along that way would already have been done in advance and be graded in anticipation of the road being widened at its side.

Acting Chairman Leinwand

Sal, you've seen all this.

Dir. P.W. Sal Fazzino

Mr. Chairman, we've met with the applicant several times and I think what they've proposed here is basically to, first of all, install the utilities; secondly, convey property to the City of Middletown so that at a future date, the road can be improved; and thirdly, they are showing proposed grading of the land between the road and the new lot that will be an advantage towards eventual reconstruction of the road.

Acting Chm Leinwand

So you're satisfied that we are getting as much as we can reasonably expect to get.

Dir. P.W. Sal Fazzino

That is correct.

Acting Chm Leinwand

The other issue that came up during the public hearing had to do with all the run-off, particularly the Westfield Terrace residents who had serious concerns and the flooding that we know and the icing that exists on that stretch of Westfield St. What's been done to address that?

Mr. Jackowiak

When the City puts in a new road, they're going to at that time put in new drainage. And, hopefully, that will take care of any run-off from that area. We've also...across Lot 1, we've put in a 20-foot wide drainage easement and we have reserved an area there for a possible retention basin...if the rear land is ever developed.

Acting Chm Leinwand

If I understand you correctly, you're saying that you can't do very much about it, but the City would be able to put better drainage in along that 20-foot easement, right, on the westerly part of the stretch of land?

Mr. Jackowiak

The existing drainage that's there right now, they couldn't very well leave it there because it will be in the middle of the pavement, so they're going to have to move that drainage over to the southerly border of the property, or the new property line...the new edge of the pavement. So, in effect, they are going to put in the new drainage.

Acting Chm Leinwand

Who's they?

Mr. Jackowiak

The City. When they build the road, they're going to put in the new

drainage.

Acting Chm Leinwand

Yeah, but that stretch of road, we're not taking any additional land at that point where the easement comes in.

Mr. Jackowiak

Not at that point right there, but from Lot 3 in easterly direction, they're taking land all the way to the end of the Kieft property.

Acting Chm Leinwand

Am I the only one confused? Sal, can you help us with this? I know we have a drainage problem. I hear the developer saying there isn't a damn thing he can do about it; he's going to wait until the City does it. I'm looking at a map that shows a 20-foot easement going right up to the current Westfield St. Why can't we ask the developer to address the drainage problem?

Dir. P.W. Sal Fazzino

We did discuss this with the developer and, at our recommendation, he has installed a drainage easement...or proposing a drainage easement on Lot #1. The drainage problem referred on Westfield St. to the icing and the freezing of...the hazardous driving at that particular corner, will be addressed in an indirect fashion by virtue of cutting the trees and allowing the sun to shine on that portion of the road. Houses being constructed and intercepting these springs that exist in that lot...1, 2, and 3, the situation should be improved.

Acting Chm Leinwand

Comm. Patnaude I'm sure wants to ask about the springs...

Comm. Patnaude

You hit on the right point; I'm kind of still confused, Sal. Here we are...everything seems to be falling on the City right now. Why can't we ask the developer to do all this instead of reverting it back to the City? Everything you've said so far, the City is going to do...the City's going to put in the drainage, you're going to give the City land so they can enlarge the road...everything's the City. I mean, you people are developing this piece of property. All I'd like to know is, can you people do it if we request it? I mean, I think the City Z & P can request it. And if we say to you people, 'This is the way we want it,' I believe that's the way it should be.

Att. Dean Thomasson

Well, we're doing some re-grading on the slopes. That's going to have an effect, but houses are going to have basements and, I assume, foundation drains, they're going to have some effect. Springs are the kind of things you just don't know where they will go and where they will show up again. Certain things could be done with this land between the back of the sidewalk and the back of the existing basins. A...gentle ditches could be put there and an open-backed basin lid could be placed or a hole could be punched in so that any water running off over the sidewalk would be caught. I'm sure you've seen those kind of situations where there's a ditch behind...slight swale behind the edge of the road, the back of the curb

with access to the catch basin. Now that could be worked in for this at a reasonable cost and solve the problem, I'm sure. And I would recommend that to my clients.

Acting Chm Leinwand

I'm going to recommend that we close the public hearing, that we not act on this tonight. But do we direct the Director of Public Works to come forward with a proposal that will ameliorate the problems to the degree possible and give us that in writing so that, in fact, when we do act on this, we act on it with very clear understanding of what the developer is responsible for. I mean, I'm ready to say the City's got to do the road eventually, but I'm not ready to sit here and say that at some point when the road is done, we'll take care of drainage when I hear the developer saying something can be worked out and I hear you saying that while you discussed it you didn't come to an agreement. We're telling you, come in with an agreement that takes care of the problem. Any further questions? Is there anyone else wishing to address this particular problem? Positively or negatively. Seeing no one, I will close the public hearing on this particular item. I don't think we need to put it under New Business. And I believe Ted, you and Dean will work with Sal and on February 11th, we will have something in writing. Thank you. Item 2 please.

Sec'y Gadomski

Item 2. Continued: Four rear lot subdivision located on Ridge Rd.
Applicant/agent E. Leroy Brock/T.F. Jackowiak.

ITEM 2. 4
REAR LOT S
ON RIDGE R

Att. Harry Everheart

Just for the record, I'm Harry Everheart, an attorney in Meriden representing Mr. Sivonda who has purchased the property from Mr. Brock.

Mr. Jackowiak

You all have copies of the map. The twentieth. Yes. The map is the same map that was presented here two weeks ago with the exception that we have placed a curtain drain along the easterly side of the sanitary sewer that runs in a northerly direction. This curtain drain will alleviate the run-off, not the run-off, but the bleeding of water out of the slope of those properties on the westerly border...hopefully to correct that situation. This 10 inch curtain drain will have piped into it the roof drains, the footing drains, and any yard drains that might be out there on the property and will alleviate any of the water conditions that are claimed to be out there. That's about it, that's about all I have to say although there are two elevations...drawings shown, showing the roadway that Water & Sewer asked for over the pipe. And also, they asked us to extend the right of way 20 feet beyond the last manhole. There is also an elevation of the curtain drain shown, if you want to look at it. It's on the left side of the drawing.

Acting Chm Leinwand
Anything else?

Mr. Jackowiak

No, I think that's all that I have to say. I'll answer questions...

Acting Chm Leinwand

To refresh your memory, it seems to me that we asked very point-blank last meeting, can you engineer this thing to improve the drainage water problem, and then we were invited to walk this land. [garbled] claims that it's very wet or swampy. Sal, have you looked at this? You've seen this? Because you weren't at the last meeting.

Dir. P.W. Sal Fazzino
I am familiar with the map, but I have not walked the property.

Acting Chm Leinwand
And do you believe that this particular curtain drain will address some of the concerns of the people who live back along Murray St.?

Dir. P.W. Sal Fazzino

[INAUDIBLE]

Acting Chm Leinwand
Are there other questions of the developer? George.

Dir. George Reif
One of the problems seemed to be that 10-foot strip that says it's owned by the City of Middletown. There's a recurring theme that we're not really sure that the City owns that. Has there been a title search? Anybody help me on that?

Mr. Jackowiak
I never found a deed that gave ownership to the City, although there have been deeds in the same area that gave these strips to the City. Although I never did find the deed giving this particular strip...naming this particular strip to the City, although the City claims that they own it. But I don't know how they...I was never able to corroborate that claim.

Att. Everheart
In one of the deeds, there is a provision for water and sanitary sewer service across that parcel.

Acting Chm Leinwand
Any other questions? Comm. Pillarella.

Comm. Pillarella
The concerns of the Water & Sewer Dept., dated January 14, have those all...those three concerns been addressed?

Mr. Jackowiak
Yes.

Acting Chm Leinwand
Other questions. George.

Dir. George Reif
We turned in a copy of your print to the Water & Sewer people this time and they said they didn't have enough time to respond. However, they did turn in a little diagram here which showed a little different

arrangement for the topsoil and broken stone.

Acting Chm Leinwand
Fine. If in fact it's approved, it would be approved contingent upon Water & Sewer approval. Any other questions? If not, thank you. Is there anyone in the public who wishes to speak to this proposal either pro or con? Sir.

Mr. Glenn Fritz
Yes. Good evening. My name is Glenn Fritz. I live at 779 Ridge Rd. A question as to the two right of ways giving access to that piece of land. The driveway to that property is on one of those right of ways and I was wondering...it was never put in writing since the land was purchased from Mr. Brock back in the '50s...I was wondering if there was any legal recourse now to the owners as to access to that land?

Acting Chm Leinwand
Mr. Everheart, would you be able to answer that question?

Att. Everheart
Is it his driveway that we're concerned with?

Acting Chm Leinwand
Yes, it is.

Att. Everheart
[garbled]...we can bring to...to assure that he has access to his property. We will not cut it off.

Mr. Glenn Fritz
Fine. That would be acceptable, yes.

Acting Chm Gionfriddo
Fine. Thank you. George, you keep us straight, and when and if this gets approved, can you remind us that this approval is contingent upon the agreement that was just discussed with respect to access to Mr. DiStefano's property. We understand. We understand. Anyone else wishing to speak to this particular subdivision? If not, then we'll close the public hearing on this item as well. Are we ready to act on this tonight? I would be happy to entertain a motion to make this Item 6.9. Moved by Comm. Pillarella, seconded by Comm. Loffredo. Discussion? Hearing none, all those in favor signify by saying aye, opposed ney. So moved. That takes us to Item 3 on the public hearing agenda.

Sec'y Gadomski
Continued: Zoning Code and Subdivision Regulation to modify rear lots. ITEM 3.
Proponent P & Z Comm. TEXT AMEN
REAR LOTS

Acting Chm Leinwand
This is the continuation of the discussion on rear lots. We went for almost an hour last time; I hope that we don't get subjected to another hour tonight. My gut sense is that we will close the public hearing when people have had their say. And I think that we all need to give some thought to how to resolve this thing within the next two weeks. I have

here...I will not read this, I will simply enter it in as part of the public hearing record.

Exhibit - Rear Lot Amendment. Jim Ripper January 28, 1987

It is a letter: 'Dear Commission members...Re: Proposed Amendment Regarding Rear Lots, dated January 26th, 1987...Very truly yours, Jim Ripper.' George, if you would take the original, and I will distribute those around the table. Is there anyone wishing to speak to this particular item on text amendments regarding rear lots? George, I only got six copies in addition to the original; you're going to need to see who needs to get Xeroxes. Or simply Xerox it and have it in our packet. Now.

Ms. Evelyn Russo

Yes, my name is Evelyn Russo. I live at 108 High St. I spoke before against any change to the ratio, the 4:1 ratio for rear lots. As the Acting Chairman Leinwand said, last time we were here, we had a presentation made by a developer, Mr. Carta, his attorney, Mr. Ripper. I must commend both of them on a very well-presented case. But watching them reminded me very much of watching that television special, "How to Make a Million in Real Estate Without Spending Money." Because that's exactly what it was - a commercial. It was not presented to better the established neighborhoods. I have two feelings on this; I do believe interior lots have their place in brand new developments. I do believe the Planning and Zoning Commission should have all of the constraints, all of the watchfulness to make sure that the developer who comes before us, telling us all the wonderful things they're going to do for the City of Middletown out of the goodness of their heart, does not disturb an established neighborhood. Because, as I can understand the proposed change, there won't be that much of a distinction between an established neighborhood and a new development. I know that there's a lot of rigamarole about anything that hasn't been developed since 1946 or '45 or '41 or whenever...but these things tend to get lost. If this Commission is going to take the planning portion of their charter seriously, it must adhere to its own rules and regulations. I recognize you do have to wear two hats. And I recognize many times it's very difficult to hear those two hats. We've been coming here since August, and I wouldn't want to sit in your shoes for all the tea in China. However, in August this Commission established the 4:1 ratio. It seems to me too soon to be thinking about changing it. You haven't given it a chance to see if it's broke. And if it ain't broke, don't fix it. Leave it alone - give it a fair shot. Give it a fair trial. Now, there is one comment that Mr. Ripper made that I'd like to set the record straight on. Since he brought it up, I'll refute it. In his presentation, he made a statement to the effect that the residents of Villa St. are opposed to the development. If you search your memories and search your records, not one resident was opposed to a development. Mrs. Chiaburri was opposed to the fact that they infringed her property rights. They went in and started clearing her lot. I think I would be upset over that, too. The other residents' main concern is what is going to happen to Villa St. if these interior lots are permitted. That was their concern. And, by the way, that question still hasn't been answered, what will happen to Villa St. Villa St. is a dead end street. There is enough room on Villa St., if you hold your breath, to get two cars going by at the same time...and if they're little

cars. When I go up to visit my sister with my Oldsmobile, I have to drive with my eyes shut. Because there is not enough room to make that a two-way street. And yet, if this interior lot provision is changed, and if no restrictions are placed, that's exactly what's going to happen on Villa St. And if anyone wants to go see a very, very pretty New England street with the snow still on it, go out to Villa St. Now there's only enough room for one car to go through. That's it. I am opposed to changing your regulations. Give it a fair shot; at least keep it for a year, to see if it's going to work.

Acting Chm Leinwand

Thank you. Is there anyone else wishing to speak to this matter? Seeing no one, then I will close the public hearing...sorry.

Ms. Marie Chiaburri

Ms. Marie Chiaburri, Middlefield St. Why is it that after only a month, you want to have this regulation changed? You approached me, Mr. Leinwand, after the September 24th meeting. You told me you worked on it, you know what it was all about, you were heartily in agreement with them. Now, right after that, you decided that, no, it was not doing what we wanted it to do. Exactly what is it that you want it to do?

Acting Chm Leinwand

Is that a direct question?

Ms. Chiaburri

Yes.

Acting Chm Leinwand

Are you done with your presentation? I'd be happy to answer it.

Ms. Chiaburri

Yes.

Acting Chm Leinwand

I have absolutely no problem telling anyone and everyone that I blew it. When we approved the changes in the subdivision text back in August or September, I misread what we did. I advocated, when I first got on this Commission, rear lots. The Director of Planning was totally, adamantly opposed to rear lots. I believe that rear lots serve this community and in any number of places is an appropriate development tool that can enhance the quality of development. It took months to convince the Director and then this Commission to include rear lots in our entire text...in our entire Zoning Code. We redid the Subdivision Code and we had some omissions. We tried to fix those omissions, and in the process, I voted for a change that was contrary to what I believe. I have worked very hard to see to it that we have both controls and flexibility. And when I spoke to you in September, what I said to you was that I believe in rear lots; I think we have to be very careful with how we do them. But at no point did I ever believe that I was voting for a 1 and 4 ratio for standard, present, on current street subdivisions. I believed that that 1 and 4 referred only to new subdivisions. So I believe that I have been totally consistent.

[TAPE TURNED]...any change. Look at the exhibits that were submitted by Mr. Carta, which I don't think make his case all that wonderfully well.

I think that there's a lot of looseness in those things where we can make a determination. We need to address language that best serves this community, not from the perspective of Ridge Rd. or Villa St., but what gives us the best possible subdivisions. And I'm not sure whether the answer is 1 and 4, or the answer is any number of things. I'm telling you that I'm going to weigh it, like I think every other member of this Commission is, and come down to what we think is in the best interests of the community.

Ms. Chiaburri
But you are just one. You said you blew it.

Acting Chm Leinwand
You asked me.

Ms. Chiaburri
You said you blew it. Did the whole Commission blow it? Didn't anybody understand the wording?

Acting Chm Leinwand
It's possible some did and it's possible that no one did. I can't speak for them and I won't ask them to.

Ms. Chiaburri
Well, then most of the people who are sitting here tonight were sitting on it...

Acting Chm Leinwand
No, most of the people that sitting here tonight were not sitting here at that meeting.

Ms. Chiaburri
Not at that meeting when the regulation was passed? Who was not there?

Acting Chm Leinwand
I don't believe that Comm. Patnaude was here that night, and I know that Comms. Robinson and Loffredo are new to the Commission which is why it is entirely appropriate to have this particular public hearing to give the Commission the charge I just did because there has been that change. I may be all wet. We need to have some substantive discussion about this, not from the perspective of simply Villa St., but on the issue of what kind of language gives us a rear lot provision that does not rape neighborhoods, that does not give developers all kinds of free reign, but allows the kind of flexibility that I think we would all like to see. Just let me make the point...I mean, again, Carta being right, Carta being wrong, the Brock subdivision that we're about to deal with tonight off of Ridge Rd. - big interior lot - very easily could be 12 to 15, 12 to 16 single family lots done in these little, ugly cul de sacs. Instead, because there is a rear lot provision, we are looking at 4 very large, far more acceptable, I hope or believe, to the neighborhood, certainly better planned, development. I think that that is an argument in favor of some rear lot provision on existing streets.

Ms. Chiaburri

I'm sure you're right. But I'm sure there's a way to develop property that can be done the right way, without having to take every inch of land there is just to make a fast buck...and then sell it and leave. We've been there 35 and 40 years and we're concerned about it. We don't plan to sell our houses for profit.

Acting Chm Leinwand

All I'm going to say in my defense, and if I put on my Steve Gionfriddo simulator, okay, I would say, 'I don't know why I'm debating with you.' But I think it's important to remember that I was not alone on this Commission when we looked at the Carta/Chowaniec subdivision on Villa St. and tried to redraw lines in such a way that there was absolutely no way that there would be access off of Villa St. And I'm still committed to that particular arrangement, rear lot or no rear lot, so that in fact Villa St. is not raped.

Ms. Chiaburri

You sat there and you said you knew it was wrong, but you were going to vote for it anyway. Did you or did you not?

Acting Chm Leinwand

I don't recall that.

Ms. Chiaburri

Well, I recall, and there are many here that do recall it. So if you're going to change it, at least give us a chance and look at it. Where is the wording on it? Where is the new wording that you propose? We haven't seen it; it hasn't been submitted. We don't have a chance to look at it. You're going to vote on it without anybody's looking at it?

Acting Chm Leinwand

Very, very unlikely.

Ms. Chiaburri

Thank you. We would appreciate if we could see it a little while before you put it to vote.

Acting Chm Leinwand

I think that we will have good solid discussion, and like we've done with every other matter of that magnitude, say, 'Let's have one more public hearing, because here's the actual language.'

Ms. Chiaburri

I thought it was supposed to be on record today. Or for today.

Acting Chm Leinwand

It's not.

Ms. Chiaburri

But it was supposed to be?

Acting Chm Leinwand

Not that I recall.

Ms. Chiaburri

I thought the last meeting he said that it will be down at the City Hall

for anybody that wants to see it. Now it is not there.

Acting Chm Leinwand
I think we're talking about another matter.

Ms. Chiaburri
No, I don't think we're talking about another matter. We're talking about the changing of the wording.

Acting Chm Leinwand
Comm. Loffredo.

Comm. Loffredo
I believe Mr. Ripper gave us a revised or a new copy of what he had submitted before.

Ms. Chiaburri
Excuse me. Is Mr. Ripper going to write these new Zoning Codes? Or is the Zoning Commission going to do it? I don't understand what he has to do with it.

Acting Chm Leinwand
Trust me. He has an interest in it. He wants to show us what he thinks it ought to be. We took other things that developers have done and tore them to shreds. I think we will continue to deal with that as input, along with Staff input, and our own feelings. Trust me, Ripper doesn't write our Code.

Ms. Chiaburri
Well, it would be a good idea if we...you know, we all took a look at it. Thank you.

Acting Chm Leinwand
Is there anyone else wishing to speak to this matter? Thank you, Ma'am.

Ms. Ann Bickford
Ann Bickford, Country Club Road, Chairman of the Strategic Action Commission...Committee of the Westfield Residents for Rational Development. We went on record the last public hearing on this issue that we didn't feel there should be changes in the zoning on the rear lots. The reason I'm here today is that, apparently, at least it was stated at...several meetings ago that the public hearing was being re-opened at the request of Att. Ripper. He proposed...made a proposal, presented it last public hearing, and I do have a copy of that that I received from George Reif. I have looked at it fairly carefully, as have some of the other members of our committee, and we have tried to see exactly what it is that he is asking, and that's what I wish to respond to, at this point. His goal, as he states, is to encourage rather than discourage interior, or rear lots. And his first recommendation is they actually be changed in name from rear lots to interior lots. That apparently has a better sound to it. The other thing that I see that he's doing is requesting that they be removed from a Special Exception standard. As it is now, they are Special Exceptions unless they're part of a new subdivision. The other thing that he's asking is that...he did not ask for a change in the ratio

in a new subdivision, but he does wish that there would be no ratio applied to a City street...new subdivision in a City street, and that there would apparently be no public hearing required, because it would be under the subdivision regulations. First of all, we think that the City is very liberal as it is with their allowance of rear lots. Rear lots are, in many communities, not allowed at all. And one of the reasons for this is safety. Part of the criteria of setting up a zoning code is to establish frontages, character to a neighborhood, the safety of the individuals, and so forth. And having numerous rear lots does nothing to increase the safety, as far as access for fire and so forth. The other thing that we feel is that there is an element of destabilizing to an existing area. As you know, we've come out before when we were very strong with the rezoning of residential areas...that we stabilize the zones so they would not vary when Water & Sewer brought in. By the same token, you take an established neighborhood, and somebody has some property and decides they want to put a rear lot in, right now the Code allows this with a public hearing, as a Special Exception, and I think this is the way it should stay. I think that the neighbors should know when it's going to happen, and I think they should be able to respond. By the same token, I think that we are already very liberal allowing one: four ratio of rear lots. And I think, even more particularly, on an existing street, we should be careful about making this more available. It seems to me, just the reverse of you, Steve, it's the existing streets where a neighborhood is already established, a character is already there, people know what they expect....expected to have in their residences...That's part of what zoning is about, is to protect what is established, as well as to provide for the new. So, I feel there is no need for any change...we feel that there is no need for any change, that they should stay as they are. Middletown is liberal enough as it is. And I think there are other, more important things that the Commission needs to attend to than having hearing after hearing on this. Thank you.

Acting Chm Leinwand
Thank you. Anyone else? Katchen.

Ms. Katchen Coley
Katchen Coley, Executive Board of Your Neighborhood Friends, 191 Mapleshade Rd. This is a very quick one because we...our discussions and examination of it, coincide exactly with Mrs. Bickford's statement. We believe that you have, under the new Subdivision Regs, the permission to do one: four. You can still do it for the old...under the regular Regulations by using your waver. When there is a situation that really would demand it, or it's a hardship on someone, not to be able to do it...you already have that power to do it. Otherwise...therefore, we believe you should leave things as they are for the benefit of the City as a whole.

Acting Chm Leinwand
Thank you. Anyone else? If not, then I'll close the public hearing on this particular item. If you would read 4 and 5 together please.

Sec'y Gadomski
Proposed: Zoning Map Amendment to rezone corner of Silver St. and Wall St. from R-1 to TD (Transitional Development) Zone. Applicant/agent Joseph Voll/Att. Joseph Milardo. Proposed: Special Exception to permit an insurance
ITEM 4.
ZONING MA
AMENDME
SILVER S
WALL ST.

office and professional office located at 26 Silver St. if area is rezoned to a TD Zone. Applicant/agent Joseph Voll/Att. Milardo.

ITEM 5.
SE /SILVER
ST.

Acting Chm Leinwand

You have in your packets a letter from Joseph Milardo - 'Dear Mr. Reif: Please be advised the above referenced application is being withdrawn in this matter. We would request that said withdrawal be allowed without prejudice to a later filing date by this office on behalf of the applicant.' I would entertain a motion to accept a withdrawal of these two items. Moved by Comm. Pillarella, seconded by Comm. Robinson. Any discussion on the withdrawal, and then we'll get to the second half of the letter. If not, all those in favor signify by saying aye. Opposed nay. The two items are withdrawn. The letter goes on: 'It is my understanding that the fee paid for this application should not have been accepted according to 71.02 of the City Zoning Code and may be applied to an application for a zone text change which accompanies this letter.' Not in my packet. Did anyone else get that?

Dir. George Reif

I'd like to address that when you're ready.

Acting Chm Leinwand

Fine. As the letter goes on, as it gets more and more presumptuous: 'It was also my understanding that the Zone Text Change will be scheduled for public hearing on February 11, 1987.' Now, before we get to the issue, the Zone Text Change was obviously to allow this particular item to come in within a year. Let me phrase it differently: currently under Zone Change, if it's defeated, you cannot come back in within the next 12 months. George, do we have a responsibility or are we legally bound to put this item on for public hearing? Because there's been a request for a Zone Change...Text Change?

Dir. George Reif

No.

Acting Chm Leinwand

Why?

Dir. Reif -> Well, you can decide. First of all, it came in well after the closing time for...

Acting Chm Leinwand

Well, suppose it came in on time - do we have to schedule a public hearing for a Text Change if someone requests it?

Dir. George Reif

If someone pays the fee and turns in an application, my answer to that would be yes.

Acting Chm Leinwand

My opinion on this, for whatever it's worth, is that we ought to be as hard and as fast as many of you have argued on any number of other things. I think that it is appropriate for the Commission to request that the fee paid be returned to the developer, and if in fact he wants to go and apply again, let him come in and do it, but I'll tell you right now, I have very little inclination to change the 12 month rule in this particular

matter. So it's up to you. Comm. Loffredo.

Dir. George Reif

I just wanted to add one detail. The reason I didn't give you a copy of the letter - it was written from an out-of-date Zoning Code, and it had some words in there that were wrong. So...

Acting Chm Leinwand

Did you have something? My suggestion is that the Commission move to return the fee to the applicant, not apply it to anything else. Moved...we can discuss it in a second...moved by Comm. Pillarella to return the fee, seconded by Comm. Robinson. Is there discussion on this? Comm. Patnaude.

Comm. Patnaude

As far as the 12 month waiting period, I heard there was a little mix-up on this; you said yes, they said no, they said no, you said yes. What was the legal opinion on this?

Dir George Reif

It never reached...it never reached the point where it was a legal opinion. No one from the City Attorney's office ever had any discussion with me about any aspect of this. There is one thing - there's no way to analyze an application unless you have it in hand. One of the reasons this was never put on either the agenda for a preliminary presentation and certainly not on a public hearing as I was once instructed to do is because we never had a complete application in hand for the purpose of analyzing it.

Acting Chm Leinwand

In George's defense, as you well remember at the last meeting, you know, the Chairman snuck Att. Milardo right up there and we all just said, no problem. Nice, simple, clean - go put it on the public hearing. And lo and behold, we find out that it wasn't quite so kosher. Now we're taking care of it. Nino.

Mr. Nino Martucci, Planner

They didn't discuss it with George, but it was discussed with me by the attorneys. And whatever opinion they came up with is moot at this point because they withdrew.

Acting Chm Leinwand

Fine. Regardless. We have accepted the withdrawal. There is a motion before you...Comm.

Comm. Patnaude

What we're voting on is returning the fee, right?

Acting Chm Leinwand

That is correct.

Comm. Patnaude

Let the 12 month waiting period stand as is.

Acting Chm Leinwand

My question to George, could he come in this week...

Comm. Patnaude

Just to revert back to what you had said before that, not to get in a lengthy discussion on it, but you had mentioned the Chairman had put this ahead and you put it on the public hearing without us Commissioners voting on it, is that more or less what you said?

Acting Chm Leinwand

No, no. We all voted to put it on.

Comm. Patnaude

All right, I just wanted to make public record. I'm going along with the point that I want to, as far as the 12 month waiting period and the refund, okay?

Acting Chm Leinwand

All we're doing now is we're rejecting his request to apply it to a non-existent application. He gets his fee back and he can start and he can come in with any text change application he wants and we'll deal with it at that time. Further discussion. Hearing none, all those in favor of the motion signify by saying aye. Opposed nay. So moved. That takes us to the last item on the public hearing...legal notice. #6.

Sec'y Gadomski

Proposed: Special Exception to permit a professional office building located at East Main St. and Main St. Extension. Applicant/agent Marino Main Realty, Inc./Anthony Marino.

ITEM 6.
SE/EAST MA
& MAIN ST.
EXT.

Acting Chm Leinwand

I believe that you received a map for this at some time in the past and you have in your packet tonight a memorandum from the Public Works Dept. regarding this proposal. Gentlemen.

Att. Anthony Marino

I am Anthony Marino, representing Marino Main Realty, Inc. I am just here to answer any questions that the Commissioners may have.

Acting Chm Leinwand

Are there questions from members of the Commission? George?

Dir. George Reif

I think you must in this case look at the comments from the Public Works Dept. I think they're germane. And there's one other minor thing. There's a requirement for a 15-foot rear yard for a building in the T.D. zone. I brought this up several months ago. Why it was never changed, I don't know. Maybe Mr. Marino can explain that.

Att. Marino

In answering the questions, I will defer to our consulting engineer, Mr. Mylchreest.

Acting Chm Leinwand

Fine. The first point, George, is it's here because we're in the T.D. Zone. The use is not at concern to you at all, because it's a very positive

use of the land.

Dir George Reif
Nice project.

Acting Chm Leinwand
David, the issue of the rear setback.

Mr. David Mylchreest
George had discussed that with me. The architect and I are pretty much in agreement that the question of where the rear is. As you know, it fronts both on East Main St., on West Silver St., and on Main St. And if there is a problem, there's no problem where we could move the building any way, sure we've got plenty of room. The thing that does concern me was a comment from Public Works which I just heard of about a half-hour ago. And it concerned the drainage off this property through two newly-installed or soon to be installed conduits. That portion of property presently drains in that general direction, and we certainly can look into it and I think we can overcome the comments and the objections the Public Works has. I just was not able to resolve it between now and the time you had your public hearing, but...

Acting Chm Leinwand
Fine, so you're saying that an approval subject to compliance with Public Works comments would not be a problem.

Mr. Mylchreest
We'd certainly look into it and take care of it before you get a final approval, yes sir.

Acting Chm Leinwand
George, what do you say to the point that, where is the rear? I mean, which street is it on, really?

Dir. George Reif
You can't figure out what the rear is and you want to call it...they have two doors. Obviously, one is the main door and the other is a secondary door. If they simply cannot figure out which is the rear, then they can have 15 feet on both sides opposite the door. I would opt for what appears to be the main door because that would give you 15 feet and help the situation of a steep bank in back of this building. And if it was any reason...

Acting Chm Leinwand
So which way would you move the building?

Dir George Reif
Toward...well, I can't remember which direction. Toward the main street...South Main St. Main St. extended.

Acting Chm Leinwand
That's east...that's west, unless I'm all wet here. Here's your building. Where's your concern. Okay, so it's moving north. Five feet seems awfully small in the context of meeting both the spirit and the letter of the Code.

At. Marino
We have no problem moving the building five feet to accomodate the...

Acting Chm Leinwand

Fine. Are there other questions of the proponents? Comm. Loffredo.

Comm. Loffredo

Will you address the erosion contro? in our revised site plan too?

Mr. Mylchreest

Here again, I didn't see that comment till a half-hour ago but we certainly can crank that in. All the comments the Public Works had I believe can be overcome and we certainly can take care of that. If you don't want to act on it tonight, if you want to wait until your next meeting, it's all right with us. Either way.

Acting Chm Leinwand

Well, I'll defer to the Commission on that. Any other questions? If not, thank you. Is there any member of the public wishing to speak, pro or con, this particular proposal? Seeing no one, then I'll close the public hearing on this item as well. What's your pleasure? Do you want to wait, or do you want to get rid of this tonight? You'd prefer to wait. Fine. I don't hear a motion, then we'll get a revised site plan and deal with it two weeks from tonight. Okay. That takes us to your favorite item on the agenda, item 3. Discussion with the public.