

COMMISSION ON THE CITY PLAN AND ZONING - PUBLIC HEARING - WEDNESDAY -
MARCH 22, 1972 - 7:30 P.M. - MUNICIPAL BUILDING - COUNCIL CHAMBER -
DEKOVEN DRIVE - MIDDLETOWN, CONNECTICUT

Ralph Shaw II, Chairman
Robert F. Chamberlain, Vice-Chairman
David Mylchreest, Secretary
Seb Passanesi
Eric Lowry
Frederick Congdon, Alternate

COMMISSION
MEMBERS PRESENT

Salvatore Lisitano, Alternate

COMMISSION
MEMBER ABSENT

George A. Reif, Director
William M. Kuehn, Ass't. Planner
Althea Rinaldi, Recording Secretary

STAFF MEMBERS

Philip Bauer, Engr. Public Works Dept., Mr. Crete and
Atty. Robert Hurney for Crele Constr. Co.; Robert Carney
of Middletown Industrial Development Corporation; Atty.
Theodore Raczka, representing Dr. Nina and Mr. Toll.
Approximately 17 members of the public at large.

OTHERS

CHM. SHAW:

I want to call the public hearing portion of the meeting
for the Commission on the Plan and Zoning as now open.
Mr. Secretary will you read the call.

SEC'Y. MYLCHREEST:

THE MIDDLETOWN COMMISSION ON THE CITY PLAN AND
ZONING WILL HOLD A PUBLIC HEARING ON MARCH 22,
1972, STARTING AT 7:30 P.M., IN THE COUNCIL
CHAMBER, MUNICIPAL BUILDING, DEKOVEN DRIVE,
MIDDLETOWN, CONNECTICUT, to consider:

LEGAL NOTICE

1. Application by Crele Construction Corporation
for change of non-conforming land-use to
permit construction of an additional building
for storage and repair of construction equip-
ment. This is a modification of a previous
application heard at a public hearing held
August 11, 1971.

CRELE APPLICATION

CHM. SHAW:

Thank you. As is the custom we will ask first that any
proponent for any change or any public hearing item speak
and then we will ask for anyone who would be in opposition
to such action. I ask that you keep your remarks pertinent
and as brief as possible. I don't believe that there are
any other ground rules that we're going to ask. Now who
would like to speak in respect to this particular call?
Attorney Hurney.

ATTY. ROBERT L. HURNEY:

For the record, Robert L. Hurney, Attorney at Law, for the
applicant. I have here the original map which is part of
your records that was submitted and here is the revised one
which I will pass around after I've finished if you don't
mind. This is a modification and it has been modified

considerably. The building, the proposed building, is 100 X 60 ft. It has been turned so that the---it no longer faces on Saybrook Road. Access to it will be from Shunpike Road which is along the back here (pointing out on map) a little used road. Better than facing Saybrook Road, as I said, it will be Shunpike Road. The parking lots will be in the back. This area that you see shaded in grey will be blacktopped. The screening will be by the way of shrubbery from Saybrook Road so the operation will be screened. You won't see this. So that esthetically, it's a completely different proposition. As I said, basically the three real changes are that the building will no longer be facing Saybrook Road. This is that number 1 and 2, access will no longer become Saybrook Road and 3, it will be screened by a landscape architect with suitable shrubbery which will be left to the architect. Now, as far as the neighborhood concerned, as I'm sure as a matter of record and I'm sure you gentlemen are aware, there has been considerable applications granted in that area for extensions of non-conforming uses including automobile junk yards. Now, I recognize the fact that on the---under the present Code this is an R-1. However, I don't think there has been a new residence built out there in 20 or 30 years. The majority of the residences out there are not R-1 type and certainly wouldn't qualify under today's Code. It's projected on the general plan for commercial. This building is a prefabricated steel type structure. If any of you have been in the area it is not at all unlike the one that is being put up across the road. Only this one is being shielded from the road and the access will not be from that road.

Not that it has much to do with to -nights hearing, sometime ago my client ordered this building. That's why we can't modify the size of it. He wasn't aware there was a zoning problem. It was before he came to me, before he came to you. He ordered the building. It was delivered and it's paid for and it is sitting there unpacked. As I said there is three major modifications and if you'll examine the charts several minor ones including black-topping and various other things. It will really improve the area. Not only the shrubbery that will be put up as fencing, but also there will be other landscaping, such as the planting of grass, etc. I might call your attention to the area, encompassed in this area was once a deep ravine which my client has now filled to conform with the surrounding topography. Of course, he didn't have to, it is not a zoning matter. He did do that. His intention is to improve the looks of the land. Are there any questions that I can answer?

SEC'Y. MYLCHREEST:

It is your intention then, when the assuming, this is allowed and when he comes back with a site development or a site approval he will then present a complete plan showing landscaping and up to that point.

ATTY. HURNEY:

Yes sir. Well the landscaping will be here (pointing to map) primarily as it is shown here. If you want, a further landscaping architect drawing we will be glad to forward that to you.

SEC'Y. MYLCHREEST:

I thought you made that statement Mr. Counselor, that's the reason why I asked.

ATTY. HURNEY:

No, I'm sorry sir, what I stated was that we would put this landscaping in and we would hire a registered landscaper, a regular landscaper or a landscape architect to supervise it to make sure that the proper type of planting were installed there, that would give us the proper screening.

COMM. PASSANESI:

Would you have any objections (inaudible) that drawing for an approval?

ATTY. HURNEY:

Of course not.

CHM. SHAW:

What is the intention with the existing building as indicated here.

ATTY. HURNEY:

Well the existing buildings will remain as it is. There will be no enlargement on that. Is that what you mean? No, there is no intention to enlarge the existing building. It's going to remain just as it is for the present.

SEC'Y. MYLCHREEST:

What happens to that big rock that's there now?

ATTY. HURNEY:

I think my client will have to answer that question. Can you tell us?

MR. CRETE:

What's this?

SEC'Y. MYLCHREEST:

The big pile of rock that's on the east end of the property.

MR. CRETE:

I'm going to leave it there for a while. I intend to blast it and level it off.

ATTY. HURNEY:

Mr. Crete has considerable equipment with which he can do these things as far as a big project as it would be for some people. He has his own bulldozers and etc.

COMM. PASSANESI:
But he intends to remove the stump---boulders.

ATTY. HURNEY:
That's what he says.

CHM. SHAW:
Any questions. Any other questions?

COMM. PASSANESI:
There's a couple of small truck trailers that are on the site now near the main highway.

ATTY. HURNEY:
What kind sir?

COMM. PASSANESI:
I don't know, there own trucks probably being used for storage of somekind.

ATTY. HURNEY:
They don't belong to my client. I think he has give someone permission to put them there. Is that correct?

MR. CRETE:
They don't belong to me. Yes.

ATTY. HURNEY:
As a temporary sort of a thing. It has nothing whatever to do with this.

CHM. SHAW:
Any questions?

COMM. PASSANESI:
My question is, are they going to remain?

ATTY. HURNEY:
He'll have to tell you that sir, I don't know. Are they going to remain?

MR. CRETE:
No, they are not going to remain there.

ATTY. HURNEY:
Thank you.

CHM. SHAW:
Anyone else wants to speak on this question? Anyone who would like to speak in opposition to this request?

ATTY. RACZKA:
Mr. Chairman, members of the Commission, my name is Theodore J. Raczka. I practice law in Middletown with an office at 363 Main Street, Middletown, Connecticut and this evening I represent Dr. Nina and Mr. Toll, who own property directly

opposite the proposed construction which is submitted. On the plan (I want to see if I can find north and south, I'm a little confused here) there property is directly opposite this shaded area on the east side of Saybrook Road. In fact, their driveway to there property is just about at this point (pointing to map). They live here on a piece of parcel of land and has about 10 acres. They have asked me to object to this proposal. Now for the record, I would like to call your attention to the fact that this applicant had previous filed an application before this Commission and that there was a hearing on Wednesday, August 11, 1971, at which time the call stated that the applicant wished to construct an additional building on his present site and to continue the existing use which is storage and repair of heavy construction equipment. My recollection is that, the application was denied by this Commission and at a later date there was an appeal taken and as far as I know in checking the court records that appeal had not been withdrawn, terminated or any decision had been made on it. I question very much whether at this point this Commission has any jurisdiction to consider this application in view of that record. That is a point. Number one, which I would ^{like} to make but that I think which could be clarified by a Counsel for the City rather than myself. I wouldn't want to speak for him. I certainly would like to call your attention to that record however, because many of the things which I think would be said here to-day have already been said.

First of all I don't want to go into a great detail but our Zoning Code of course is the constitution by which we all work by and I think it's best that we try to follow it as strictly as we can because it's only that way we can have harmony in the development of the particular area or the particular town and I think Washington Street in our City is an pertinent example of what happens when that isn't done. Saybrook Road and parts of South Main Street I think are the last two arteries into the City in which we have a chance to do something, in far as guidance. Now I would like to call your attention to Section 14.01, that it is the intent to these ordinance not to encourage their survival. (Now this is the language of this Commission and not the language neither of the opponent or proposal.) Then after the effective date of this ordinance they shall be limited and non-conformities shall not be used as grounds for adding other structures. We are not talking about changing the use of the structure which was already in existence at the time these regulations went into effect. You're talking about adding a new separate detached building, which you state in your regulations will not be done. And then, thirdly, as far as expanding non-conforming---expansion of areas in 14.03 that they shall not occupy a greater area of land which was occupied before. I'll go into that a little further. And thirdly, in your regulations as to what material the applicant should have, he should have shown not

only dimensions and sizes of the existing---of the proposed buildings but show the dimension of the existing building so that you could compare what's going on. Do you notice that his new building is 60 X 100 and there is no measurements at all on his old building. I would hope that this is to scale and I suppose it is. I believe this is drawn by an engineer. Yes it is. You can readily see that there--- his new building is about three times the size of the old building. It's completely warping---I think of the purpose of where you allow a non-conforming use to continue or you encourage a survival of a business you give them a leeway, you give them a little breathing room, I can see that. I can't see tripling the area. Now I travel through this street many times and you take thing for granted so I decided to go through Saybrook Road this afternoon and this was certainly not the best time to travel on Saybrook Road because it was raining like cats and dogs. You start from Bartholomew Road and you go to Aircraft Road, it's a distance about three miles and I counted a few houses. I counted 26 residential structures and I don't know when they were built, but I do know this---many of these were built a lot sooner than the 20's or 30's period which Mr. Hurney stated. In fact, there is a new house going up directly to the south of this property. It is under construction right now and is being constructed for residential purposes. As far as the uses, commercial, I counted three, that is Calosso, Mr. Gaut'erri, and Sam. All of a sudden this afternoon I discovered a new building going up there. I never saw it before, There are four. Then there was the restaurant building which is now a Union Hall. So on one had you have 26 residential houses and you have 4 what I would call definitely commercial properties. Do you say now because of that this area has become commercial? I don't think so. I think that is to superficial. I think greater thoughts should be given to that. This area I believe acquired in two parcels, but I did not have the chance to check the land records and I think that can be done. I think it ought to be done. I think the first parcel and this was the only parcel which I think could justifiably say had a legitimate non-conforming use, was the area which was operated by a Mr. Nettis on the corner their. He had a body shop for many, many years. It was the size of a garage. What he did was he repaired passenger motor vehicles. I do not recall of any other use to be put to that property except that. At one time I think there was the well digger who stored equipment there. Whether he owned it or not I don't know. I do not believe that he used any part of his remaining land for any other purpose. In fact up to this summer all of this land was wooded. It was not used for any purpose until the applicant came in and he then cut every tree and did a lot of landscaping work and then proceeded to park the huge pieces

of equipment. This afternoon I counted at least 8, ranging from bulldozer, rock haulers and that type of equipment. In addition, I was really quite surprised to see this, there's a trailer there. This is one of the largest trailers I ever saw in my life. There was a trailer about 10 ft. wide and about I would say anywhere from 45 to 50 ft. It was parked on this property. In addition there were a least four or five milk trucks parked in this area. These pieces of equipment were never on the property in 1969 when this Code went into effect. So actually when this applicant asked for permission to store all these equipment on the property which he is showing you, he's been doing this for two years. I'm at lost why he wants your permission when he's been doing it right along. Their has been no explanation of that. In addition, even beyond and more to the east there looks like the remains of gas tanks---all sorts of other debris. I don't think an applicant should come to ask for permission to do something which he already flagrantly---already using and doing now. I think it's illegal, it's improper and I don't think it should be tolerated but in our City we don't quite have the supervisory personnel and the proce dures to go around enforcing these things. (a long pause) Now whether or not this is really a modified one application I really can't see it. All he's done is turn this building around vertical position to a horizontal position. He has indicated that access would be from Shunpike but he's bulldozing and screened and practically flatten all his remaining land so that there, you can get into this property from any road. There is no barriers of any kind. I don't think that this is a modified plan. I think it's the same plan and it has the same weakness today as it did last August. On that bases I think it should be denied. Thank you, gentlemen.

CHM. SHAW:

Is there anyone else who wishes to speak?

ATTY. HURNEY:

(Inaudible) hear/^{any}rebuttle sir?

CHM. SHAW:

I believe we do not need any rebuttles, Mr. Hurney, I think we have heard everything needed to be heard. Any other questions here? If no, we'll go on to the second item.

SEC'Y. MYLCHREEST

SECTION 40-40.04.04

2. Zoning Code text amendments as follows:

(a) SECTION 40 Off-Street Parking. Item 40.04.04 concerning parking for commercial establishments devoted to retail sales, trade, merchandising or similar use.

DELETE statement, "This requirement shall not apply to the Central Business District Commercial Zone."

Mr. Chairman in the Legal Notices in the Press this was incorrectly printed as Item 50.04.04.

CHM. SHAW:

I think in fairness to those who might have come to talk about this, that this item should be recessed and readvertised, brought back at a later hearing. It is improper listing. It is a typographical error. There is nothing we can do about it at this date. So I think we will skip that item with your permission and go on to the next one.

SEC'Y. MYLCHREEST:

SECTION 40-40.04.10

(b) SECTION 40 Off-Street Parking. Item 40.04.10 concerning parking for Elderly or Physically Handicapped Persons.

ADD statement that: "For the purpose of off-street parking requirements this category shall apply only to governmental projects such as those that are developed by the Housing Authority or similar agencies."

CHM. SHAW:

Is there anyone that wishes to speak on this item? Hearing none we will go on to the next item.

SEC'Y. MYLCHREEST:

SECTION 60-60.02.05

(c) SECTION 60 Residential Zones. Item 60.02.05 concerning permitted locations, if granted a Special Exception, for golf courses, country clubs, service organizations, including community building and similar recreational uses
ADD R-3 and R-4 Zones.

CHM. SHAW:

Is there anyone who wishes to speak to this?

ATTY. RACZKA:

Mr. Chairman, gentlemen of the Commission, for the record I'm Theodore J. Raczka and I practice law in Middletown, Connecticut. I would like to speak for this change of zone and I am sure that just for the purpose of the record my letter to the Commission dated March 3rd, 1972, made part of it. I think that letter covers this situation, quite clearly. I think your R-3 and R-4 Zones were left out inadvertently because if you recall, I think the reason for it was because of the lumping of golf courses, Country clubs, and service organizations. I think they were certain of these types of organizations, of course could not be in an R-3 and R-4 Zones. You wouldn't have a golf course in an R-3 and R-4 Zone, but when you take the type of club which is particularly patronized by many of our ethnic groups which are located in the interior of our town like the Sons of Italy, the Garibaldi's, Falcons, the Polish National Home, to some extent the old service clubs like the Hibernian's, the Elk's, they were all in the City. As we move out you would need larger areas. I think what has happened is when the 69 Code went into effect those who had drafting responsibility included

in the respective areas those uses which were there and this R-3 and R-4 Zone did not have these clubs, and yet the Commission will maintain suitable control over suitability thru the Special Exception. I think it's a sensible correction to our zoning laws.

CHM. SHAW:

Anyone else care to speak to this? Any opponents? The hearing then will go on to the next item.

SEC'Y. MYLCHREEST:

SECTION 44
ITEM 44.07.01

- (d) SECTION 44 Special Exception.
ADD an item numbered 44.07.01 and titled; Termination of Granted Special Exception Use, with text, "In the event a Special Exception Land-use is terminated and a proposed new use is not a 'use by right', as currently zoned, application may be made to the Commission for approval of a substitute use for the facility.

In its evaluation the Commission may hold a public hearing and shall consider the similarity of the proposed new use to the terminated Special Exception Use."

CHM. SHAW:

Is there anyone who wishes to speak about this? Hearing none we will go on to the next item.

SEC'Y. MYLCHREEST:

SECTION 21-21.03

- (e) SECTION 21 Restricted Residence Zone. Item 21.03 as it concerns lot area and width.
ADD "The requirements for lots with neither water and/or sewer facilities shall apply to all zones which permit detached single family dwellings." And further, "The requirements for lots without public sewer or water facilities for 200 feet of width may be modified by the Commission if: (a) only one residential building lot is proposed, (b) the lot area is one acre or more, (c) the lot is the final lot that could be established from a larger parcel, and (d) any other lots established from the parcel met or will meet frontage requirements."

Correspondence from the Central Connecticut Regional Planning Agency, New Britain, Connecticut. Dated March 20, 1972.

Mr. George A. Reif
Director of City Planning

LTR. CENTRAL CONN.
REG'L. PLNG. AGENCY
RE: Zoning Referral MD-9

Dear Mr. Reif:
Regarding notification of the above numbered referral, the

Central Connecticut Regional Planning Agency has previously reviewed a similar proposal (Md-6)--- April 13, 1971, and found the amendment to be of no regional significance, which again would apply in this case.

Sincerely,
Arnold L. Beizer
Assistant Director

Correspondence from the Midstate Regional Planning Agency, Middletown, Connecticut. Dated March 22, 1972.

Mr. George A. Reif
Commission on the City Plan and Zoning

LTR. MIDSTATE REG' L
PLNG. AGENCY

Dear Mr. Reif:

Thank you for notifying the Midstate Regional Planning Agency of the proposed zoning text amendments to the Middletown Zoning Code. In accordance with Section 8-3(b) of the General Statutes of Connecticut, the amendments were reviewed and were found not to be in conflict with the adopted zoning of the abutting Midstate communities and not of regional significance.

As provided for in the General Statutes, this letter is to be read aloud at the scheduled public hearing.

Very truly yours,
Geoffrey L. Colegrove

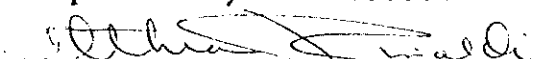
CHM. SHAW:


Any other correspondence in that respect? Anyone want to speak about this item? For or against? Hearing none, closing the item and this closes the public hearing portion of this meeting.

The hearing adjourned at 7:55 P.M.

ADJOURNMENT

Respectfully submitted:


Althea Rinaldi, Recording Secretary

 (a)
Ralph Shaw II, Chairman