

DEC. 10, 1975

Ralph Shaw, II, Chairman; Cos Giuffrida, Secretary; Edward J. Kalita, Dr. Christie E. McLeod, Paul Parisi, Sebastian J. Passanesi, George L. Augustine, Gerald J. Lentini, Thomas E. Lineberry, Conrad J. Tyaack and Anthony S. Marino, Mayor, Ex-Officio Member

Page 22

Eric G. Lowry

MEMBERS ABSENT

Thomas E. Lineberry sat for Eric G. Lowry

ACTING MEMBER

George A. Reif, Director, Catherine V. Raczka, Assistant Director, Althea Rinaldi, Recording Secretary.

STAFF

Philip Bauer, Engineer, Public Works Department; D'Vera Cohn, Reporter, Middletown Press; Lincoln Millstein, Hartford Courant; Peter Caprioglio, Reporter, Hartford Times.

OTHERS

Chairman Shaw

This is the regular meeting of the Planning and Zoning Commission. We will start as usual with our public hearing. I'll ask Secretary Commissioner Giuffrida to read the call.

SECRETARY GIUFFRIDA

THE MIDDLETOWN PLANNING AND ZONING COMMISSION WILL HOLD A PUBLIC HEARING DECEMBER 10, 1975, STARTING AT 7:30 P.M. IN THE COUNCIL CHAMBER, MUNICIPAL BUILDING, DE KOVEN DRIVE, MIDDLETOWN, CONNECTICUT, to consider the following:

ITEM 1: Connecticut Radio Fellowship, Round Hill Road - proposal to build a station at the transmitter site. R-1 zone. Use permitted if granted a special exception. Conditions set forth in Section 44. (Item 44.08.11).

CONN RADIO FELLOWSHIP - ROUND HILL RD. proposal to build a transmitter.

CHAIRMAN SHAW

This notice has appeared in the Middletown Press on Saturday, November 29 and again Saturday, December 6, thereby making it a legal call. Our normal procedure is for us to ask for the proponents for a particular item on our public hearing to speak first. After the presentation has been made by the proponent, the director and other members of the staff, the people on the Commission will ask questions and go into other various details of the proposal with the questions which we feel that we want to ask. After that I will call upon anyone else who is in favor of the proposal. When all those who are in favor of the proposal have been heard, I will then ask those who are opposed to the proposal to speak and each of you that wants to speak will have an opportunity to do so. When you do speak, I ask only that you come forward, that you identify yourself so that we can get your name and address on our tape recorder so that we can have it for our transcript. I also would like to point out that it is our normal procedure not to make decisions on any proposal that comes before the Commission on the night on which it is heard.

We normally will get the transcript back and have a chance to study it and get other information that we want, an occasion to make a field trip if it is necessary prior to making a decision, so that there is no point in anyone staying around this evening in hopes of finding out what might transpire as a result of the hearing. I am not saying that you have to leave - you may stay. You're free to stay for as long as you like - for our whole meeting, but if you do understand that ahead of time, you'll understand what it is we're attempting to do here. Who wishes to speak for the proponent?

MR. AL THYBERG

My name is Mr. Al Thyberg. I am the general manager at WIHS and also the president of Connecticut Radio Fellowship. I had the pleasure of being before your committee back in March when we proposed a very modest building in order to facilitate the putting in of a stereo transmitter and also to change our antenna site to accommodate for Middletown's FM station to be a stereo FM station. I also at that time mentioned that we were desirous of going 24 hours, and shortly thereafter with great difficulty, but wanting to do as much as we could at the immediate, we did go 24 hours for the five days and 18 hours Saturday and Sunday. We have found, over the six years that we have been broadcasting from Round Hill, that our transmitter antenna is not even above the tree line so, consequently, when the leaves are out there are places even in Middletown that does not get a good signal, and there are, of course, other places in the state that get us loud and clear when the leaves are not on the trees but, once the leaves come out, our antenna not being above the tree line makes it so that we're not doing the job that we'd like to do as a public service - communications, and especially inasmuch as anybody that has listened to WIHS knows, we're non-commercial, we don't sell radio time; we are offering our services to our listening audience in a very refined and uplifting moral and ethical type of programming. We also have on our daily schedule programs that enable the City officials and other agencies of the immediate area and the county and state to educate and to inform the listeners to what services, what problems, what solutions to those problems are proposed by those that govern us. I say that we do have attractive land that's just slightly over 19,000 square feet as you can see on the map on the (inaudible 2 words - sounds like plot plan) also the building that we intend to build will be a resident-type building. It will conform to the architecture of the residential community that - it's still quite undeveloped but there are some lovely homes in around there. We certainly wish to make this building to conform to that to if, in anything, to improve and to enhance property values, certainly not to take away from it. We're asking the council to consider our change of antenna site and that will -- we ask to be able to raise it to a height above the tree line, the height that we are considering is somewhere around 90 feet. We're presently 30 feet or there below that, but we are just out to get above the tree line. We are certainly not out to chop down all the trees and, of course, we can't when trees are off our property.

We, as you see on the map, we're considerably in from the measurements of the side lots and the front drive. We have a small staff, although we're 24 hours and our personnel is staggered over those three or more working days, working hours, shifts. We certainly don't have at one time other than when we have a special meeting of the entire staff, we don't have more than three or four there at any one time. I don't know if there is anything else that - I think it's best if I let you gentlemen ask me questions that might be before you that I can answer you to elaborate on this.

CHAIRMAN SHAW

I am curious about the evolution of this from last spring when you came in with a smaller building, which seemed rather simple.

MR. THYBERG

All right. I can elaborate on that. Obviously, a remote controlling station - it means that we're really involved in undue expense - going stereo we must actually now ask for a second telephone line which amounts to about \$88 a month. On top of that we are renting facilities down in central Middletown and that would not be necessary if we could have a small, adequate studio building. We're aware of the fact that in the special exceptions you do have this allowable exception for a public service such as radio communications and so it was based on that and actually after that first hearing I was given to believe in the conversation that perhaps we could do better than a twelve by twelve foot building and actually, in the long run, we felt if we could swing it financially, and now we're at the place where we can, it would be far better for the area. Instead of having a twelve by twelve foot blockhouse that just is an equipment center, to have a lovely, modest, adequate, resident-type building that would not in any way detract from the property holders around us. We're aware of the fact that to one side of us the property that's - was formerly Atkins and then Daniels - is now held by Wesleyan. The property on the other side of us is held by a gentleman who is interested in it for speculation and we've approached him to buy some land but the price is out of our league and he wants to sell all six acres. The last time I talked to his wife he wouldn't sub-sell an inch of it so we're somewhat throttled, and we want to do a job that's going to make Middletown have an FM station that it can be proud of. We're proud of what we've been doing over the last six years. We have just completed a survey during the month of November and we're flabbergasted by the amount of people in Middletown that are listening to our station and are gleaning much benefit from it. From a twelve foot square cement block building to a modest but adequate resident-type building, I think, is a step in the right direction - not trying to ask for more than what we should or are allowable under the special exception. If you ladies and gentlemen will consent to have this. Actually, the special exception has only to do with one frequency that's allowed in the city of Middletown. We have it and it's allocated to that spot. We can, under great difficulty, continue

to broadcast remote control until now until the end of time, but whenever the telephone company is tinkering with their wires and this has happened time and time again, if they snap our wires, we're off the air. You might not have telephone service but we're off the air, and obviously seven miles or five plus miles of telephone line - if any person rams into a telephone pole - all right. The out of service also means that we're not servicing the listening area of Middletown with an FM station. We also recognize that while we're not in, and thank God we don't have emergencies every other day, but our radio station is a very worthwhile advantage to have to broadcast emergency measures and if we can have a station there that isn't broadcasting over telephone lines and have our signal right there, if we get any communication from City Hall, the police department or anything else we can, in turn, put out a news bulletin that will enable the City of Middletown to act on any emergency that might be forthcoming. Does that answer your question, Mr. Shaw? Any other questions - I will be glad to answer them to the best of my ability.

CHAIRMAN SHAW

Well, there are a couple of other comments that I have. When you brought to us the twelve by twelve building, you assured us that it would be properly screened and what not so it would not be obtrusive and, obviously, a twelve by twelve structure in the middle of that parcel certainly could be made to be unobtrusive and now it appears you're putting a full-size building on a lot which is a sub-standard building lot and it surprises me that you would take that approach after the approach that you gave us last spring.

MR. THYBERG

Well, I understand from the reading of the zoning laws that we should have, by rights, a minimum of 20,000 square feet. We're a spoonful of dirt less than that, and inasmuch as it's not a resident building - inasmuch as our needs that would be required for a residence is nil - inasmuch as we are an existing broadcasting establishment there - I am sure that you would not wish to give us the difficulty of having to do a sloppy job or a second-hand job when we can do a first-class job. We have amazed ourselves we are doing as well as we have. We are not ashamed of our performance to this point but we would like to show the City of Middletown what an FM stereo station can sound like if we have all the ingredients. We've had it where when Gordon Kehring, our Community Affairs Director, has interviewed many of our City officials, there has been times when there has been feedback on the telephone lines. We've been after the telephone company about this. Of course, this is an internal problem but you run into these when you have to depend upon other people and other agencies. Obviously, we're gonna always have to be slave to the light and power company and so on for the electricity that they supply us in order to function but we can do a commendable job to make the FM station, the only one that is assigned to Middletown, to function properly, and this is what we're interested in doing. We're not interested into the Round Hill area anything that's

gonna be a reproach. We want to make it first class and make it a lovely building and we felt all to do was to do that now.

CHAIRMAN SHAW

Fine. Thank you very much. Any of the Commissioners have any questions you would like to ask Mr. Thiberg?

COMM. LINEBERRY

Yes. I have one question. Are there many residential homes in the area?

MR. THYBERG

Not at present. There are two lovely homes that are down the road from us that I hadn't measured off in footage. There's two homes to the north of us - a considerable distance away from us. I would say - I understand from the surveyor that the Wesleyan property is about eight acres in size and that's to the town side of us or the Daniels side of us. On the other side, formerly Mr. Jacobs property, is about six acres. So we're separated by property that's up to now undeveloped. Obviously, the former Mr. Jacobs' property is up for speculation. It's going to ultimately be sold. The Wesleyan property - I don't know the wishes of the University on that. I understand that they're - well, that's-what I understand is immaterial at this point. I know there's other people - neighbors - here that probably represent these dwellings of which I speak of and they'll answer that question more fully for you.

COMM. LINEBERRY

Well, as an interest to the community in that area, have you approached those owning the properties and asked them whether they oppose or were for?

MR. THYBERG

No, we haven't. We - first of all, it didn't come to our mind. There is nothing within - I mean, it wasn't recommended to do this. I ran into this problem about 10 years ago when we were told to make a survey of Middletown - of Round Hill area - and we did that for Mr. Gustafson, the then City Planner, and that boomeranged on us. The things that the people told us - they denied it when we got here. So - I mean - that's past history. We admit, at this point, that we were wet behind the ears and green as grass and we tried to do something that was honorable and worthwhile and we got messed up. We asked for a radio zone and they gave us Spot Commercial zoning. We tried to fight it - we couldn't - until we then asked for a special exception which allowed us to do what we're doing. Actually, on the record, on the zoning laws at that time, they did have this special provision, I understand. I bought three or four zoning books over the years and each one - there's been a nice evolution in progress in this and, as I see it now, this is the only FM frequency that you have to deal with. We can't pick any hill in Middletown and relocate. We're throttled here by the Federal Communications Commission. We applied with this property initially but this is an ideal spot. We've looked for others - boy, believe me, we have when we were in the initial

hassle and there's not another place that we knew of that was obtainable that would give the City of Middletown the signal that we're obliged by the FCC to give this town. We're - this is our city of license. We have to do a commendable job. We have to do a job that is serving the City of Middletown and this is what we want to do.

CHAIRMAN SHAW
Thank you.

COMM. KALITA
Prematurely - but if a denial is granted on this application, would you go back to consider your previous approval in building of a twelve by twelve?

MR. THYBERG
We'd have to. This would create a severe hardship for us and undue cost. I don't see why a twelve by twelve foot building that's required to be patrolled by and cared for by our chief engineer every day. Another thing that's come to my mind if I may read it to you. This was just on the AP wire, the Associated Press wire not too long ago - from Garden City, New York. "Vandals broke into a radio station transmitter building and heavily damaged three transmitters putting AM station WHLI in Garden City, New York off the air today", and we're amazed actually when you realize the day and age we live in - just the vandalism of kids taking a pop shot at our antenna would be so easy to put us off the air, keep us off the air, cause all unnecessary expense. We'd like to kind of protect, along with doing a job worthwhile communications wise, be up there to protect very expensive equipment. We have battleship metal protecting a transmitter box now and there's been times when my chief engineer has had to go in there to tune it or to check one thing or another and open the doors and the cold blast of winter air or the moisture has come in and popped all the tubes out. This is why we felt when we were purchasing a new stereo transmitter the bare minimum and I tell you honestly, gentlemen and ladies, I ran scared when I came here in March. I thought if you people would just give us a twelve by twelve, well, somehow or other we'd do it; but we're not doing it the way we could be doing it, and I might have been mis-lead, but I felt that I was led to believe why was I even here. The special exception was on the books. It came to my attention that you were surprised that I was presenting this - that you thought we had already built; and so with that I went back and presented to the others involved and we've had a wonderful - see we are listener supported. We don't charge time for any of our programming. The people on our program are granted free time; so, consequently, it's the listeners that are paying the bills, and our bills are being paid because they are convinced they want this. We just interviewed the Cromwell Children's Home for our Christmas party today. We have many people and not - I don't even want to dwell on those that need the services of a religious and a moral uplifting station. The Chaplain Yarrington over at Connecticut Valley Hospital tells us that he uses this

as an out-treatment recommendation to his patients and - on and on - but we have a lot of normal people. I dare say many of you people listen to us and we're - we can be therapeutic but we're also very positive and we're more than just - we've got about the best coverage in the City of Middletown - bar none, and I don't mean to throw rocks at CNX or the Wesleyan station but we're on 24 hours a day. We have news and adequate news coverage and we're out looking for news. I have men in the field representing WIHS to give you the best station. I don't mean to - I'm sold on it, and I wanted to do a good job and I think that screening is one thing but a lovely home is something again and with a screen around a cement block building in this day and age of vandalism we are fearful. We have been for some time. We say our prayers in the morning that that thing goes on all day and all night. Any other questions?

COMM. PARISI

I've got two. You use the word "home" and I know (coughing - inaudible three or four words) that you're doing, that you don't plan anybody to be living there.

MR. THYBERG

No. It's going to be a resident-appearing building. It is, in fact, a radio station, studios. There will be no dwelling - nobody living there. Of course, we are manning it 24 hours so, consequently, we have as it were - a superintendent to know immediately if somebody shoots up the antenna or something else we can do something about it.

COMM. PARISI

Have there been perc. tests on this?

MR. REIF

(Inaudible word) not. This is the first go-round on the municipal (inaudible word).

CHAIRMAN SHAW

Any other questions? Do you have anyone else to speak on behalf of (inaudible three or four words).

MR. THYBERG

Not at this point. Perhaps in rebuttal to others that might wish to speak.

CHAIRMAN SHAW

Then I'll ask George to. Thank you very much.

MR. THYBERG

Thank you.

CHAIRMAN SHAW

George, what comments do you have? I have several personal, but we have not got-sought the comments from the other departments because this seemed to be primarily a land-use decision (inaudible word) the Planning Commission. I would like to put in the records that at the last occasion back in March you were merely re-locating

an existing 54 foot high antenna. You were moving it twelve feet, and that's one of the reasons it didn't seem like such a big occasion to the Planning Commission. The other comment I'd like an answer to is - you've introduced the topic of your lot is less than the required size. That might be a consideration if you were trying to establish a new lot. I am not under the impression that you are trying to establish a new lot, but this is a lot which would qualify as a legal lot now.

MR. THYBERG
Yes.

CHAIRMAN SHAW
Any other comments at all? If not, I'll ask - Is there anyone in the public who wants to speak in favor of this proposal? Anyone at all? All right. We'll ask for those who want to speak in opposition then. I guess it's a first come, first served. Who wants to be first? Mrs. Gauvin -

MRS. GAUVIN
I'm hard of hearing so -

CHAIRMAN SHAW
You just - Mrs. Gauvin - Excuse me. All right, excuse me - go right ahead.

MRS. GAUVIN
I - We bought the property in 1947 when nobody was there. This was just - there wasn't even a road. I'm just telling you and we used to have to come in through Kelsey Street in order to get to where the property is and we've built it up to what it is today and we were the first ones up there and then we sold property which the Isles bought and we've been the only two and it was always supposed to be a highly residential zoning area where - you know - everything was to be up. I have twenty acres of land - there's nine there - and I sold a couple - a few - about four acres and we (inaudible word) - the City has been good they've made the road - it was a road at one time. It was a - called the Old Stagecoach Road that ran through all the way which you can look back and see. Now, I have a petition here signed by everybody on Round Hill Road. We're on the top and I think you'll find that everybody is opposed to this (inaudible one or two words). Now my son - we gave him land - my husband before he died, with 100 frontage and 400 back and then I gave him two and a half acres of land that ran - he was going to put a home up but the City wouldn't OK that because they said you gotta have 200 foot frontage in order to put anything up on our road and these people haven't even got 200 foot frontage on any part of it which is what is called for up there right now - 200 is supposed to be 200 foot frontage. Now he can get a variation maybe but it's too late for him because he bought another place. He could have put a road then he'd have his 200 frontage and then, not only that, this radio station has caused us more problems with our - all our TV's, our stereo's - we get it on - it comes on there. Lately, I don't know if they've done something different or not but we try to get something and what do we get - we get a radio station and this has been going on

ever since they put it up up there and we're not the only - I'm not the only one but I live right near it and so I have the paper here signed and this all the signatures from the people that -

CHAIRMAN SHAW

Thank you very much Mrs. Gauvin. We'll put those in our record. They'll be part of our record.

MRS. GAUVIN

So we all oppose it. Everyone of us down there.

CHAIRMAN SHAW

Fine. Thank you very much.

MRS. GAUVIN

And I think (inaudible three or four words). He has the land right next to (inaudible word - sounds like "him"), and he can talk better than I can.

CHAIRMAN SHAW

Thank you Mrs. Gauvin.

DR. BUCHALTER

The land referred by the gentleman to Wesleyan's land is actually owned by myself. I'm Dr. Buchalter. My address is 80 South Main in Middletown. The land was purchased primarily as a single resident building site. There were two parcels purchased - both being adequate in size for a private residence. In this area recently there have been two structures built. I don't think it's appropriate that I comment on their values, but they are extremely expensive homes. I cannot speak for them but with the plans I have myself of in the near future of constructing on this site which is closest to the existing station I feel that any structure up there which would depreciate or decrease the value of my land or any way further interfere with my communications such as television, stereo, etc. I'm greatly against and I'm not in favor at all of a more powerful, more conspicuous structure going up there. At the present I consider the tower not only a landmark to the edge of my land but an eyesore and I'm not all in favor of the existence of the present structure but I can't do anything about that.

CHAIRMAN SHAW

Thank you. Who else would care to speak?

MR. TONY GUIDA

Tony Guida, Coleman Road. We have land near their area and it's not (inaudible two words). We have a small amount. My basic reason was we were here at the last meeting and I thought that was all settled and I thought we had had enough to pacify them at that time for what they were broadcasting. We aren't against that, but we feel as though in Middletown that this area is a - sort of a preserve area that should be preserved for future residential area of (inaudible word) that there, and if we start changing that - the zoning there to accomodate these types of differentials, I think

we will be spoiling an area that we'll all some day be proud of, and another thing that Mrs. Gauvin called -

I haven't had the experience, but her son stopped by Sunday and he did say that they were getting an interference from their communications that they have there now. Whether the higher one will avoid this or increase it or anything, I don't - but I wouldn't - I'm not in favor of it. We're not in favor of it.

CHAIRMAN SHAW
Thank you.

MR. GUIDA
Thank you.

CHAIRMAN SHAW
Charlie?

MR. CHARLES HAYS

My name is Charles Hays and I own one of the new structures on Round Hill Road - next to Walkers, and I have the same feelings as the other people and this sounds to me like a rose by another name. You're saying it's a residential area yet here's a nice commercial building coming in so it looks like a house and, you know, a house is a house and a commercial building is a commercial building, and they've already cleared quite a few trees out and they've done a lot of bulldozing up there and I think they're spoiling the whole area up there, and I'm very much opposed and I think the Walker's share the same feeling as I do. Thank you.

CHAIRMAN SHAW
Thank you. Who else wishes to speak?

MR. GEORGE ISLES

My name is George Isles. I'm an immediate resident of the area, and I question several things. To begin with, this gentleman (inaudible 2 words) gentleman here talked about 24 hour surveillance on this property. All right - 24 hour surveillance. Where is the septic system, the sewerage system on which people must exist? Now there comes fresh water problems. Drinking water. Where is this come from? This is a residential home being built without the proper facilities, without anything proper for people to live on for 24 hours, and this is what this gentleman has spoke of. Now I operate a small CB station in the immediate area. I am licensed by the Federal FCC. I am a licensed operator. There has been no convenience, - no inconvenience to any neighbors and I don't want my station interrupted any more than this fellow wants his interrupted. I have a few dollars invested and I think I have a right to protect mine. I am a licensed operator and I offer the same conveniences as this gentleman does; so I think it should be considered that this is a residential area in which small stations can operate and I think it should be confined to this point.

CHAIRMAN SHAW
Thank you. Who else wishes to speak? Anyone else? Noone else? If not, I'll declare this section of the meeting closed and I'll ask

our Secretary to read the call for the second item on today's public hearing.

SECRETARY GIUFFRIDA

ITEM 2: Proposal to change text of Zoning Code so that existing structures in B-3 and R-4 zones may be converted to multi-family dwellings without providing the open space required for new structures.

ZONING CODE
TEXT CHANGE
RE. STRUCTURE
IN B-3 & R-4
ZONES

CHAIRMAN SHAW

I'll ask our Director to address himself to this particular question - one which has been before the Commission in conversation stage for some time now.

MR. REIF

Essentially, every dwelling unit no matter where it is located in the City of Middletown, if it's three or more dwelling units, has to come before the Planning Commission and be granted a special exception before it can either be created or developed if it's in an existing building. Among the several requirements for each dwelling unit is a requirement for a certain amount of open space. The amount of open space varies with the zone. For instance, if you're in an R-2 zone you have to have 600 square feet of open space per dwelling unit plus 600 square feet for each additional bedroom. An R-3 zone you have to have 400 square feet per dwelling plus 400 square feet for each additional bedroom. In an R-4 zone there is a requirement and that's the same requirement, incidentally, as in a B-3 zone which is the Central Business District. The requirement then in both the B-3 and the R-4 zone is for 250 square feet per dwelling unit. There's no additional requirement for additional bedrooms. Normally, the new projects are built in the outlying areas where there is sufficient space on a parcel of land to accommodate the required open space but, in the older sections of the town, where buildings are converted for one reason or another from one use to another, there is usually a problem. There is very little, if any, what you might call extra space or open space or any other kind of space on a lot, so this Commission has been faced from time to time with people who have the desire to convert existing buildings to dwelling units and it appears to be a desirable feature and from time to time they cannot do it - make the conversion - because they lack the required open space, so it occurred the last time that the Commission would put on its agenda the concept of modifying these regulations so that, in the event of an existing building that was converted to three or more dwelling units, there could be some wisdom of the Commission used and determine whether or not the requirement for new buildings were also to apply to conversions from one use to this new three or more dwelling units.

CHAIRMAN SHAW

Does anyone on the Commission have any questions they would like to pose to George? We discussed this a number of times.
Yes, Conrad.

COMM. TYAACK

I didn't get to discuss it a number of times. I was just wondering on the - as I read this call - all you would be changing

would be section 42.02.03 - the lot requirement. You wouldn't be changing the other restrictions.

MR. REIF
No.

COMM. TYAACK
The external restrictions-

MR. REIF
No. It would be-

COMM. TYAACK
It would be just that one section.

MR. REIF
Yes. Only in the B-3 or R-4 areas.

COMM. TYAACK
It wouldn't be throughout the town.

MR. REIF
You could imagine examples of other buildings in some other part of town, but they wouldn't apply to this case. It would only be in the urbanized area.

CHAIRMAN SHAW
Any other questions? Is there anyone in the public who wishes to speak in favor of this? Si, you're putting your hands in your pocket - you're not going to speak. Anyone who wants to speak in opposition to this? Don't want to speak at all. All right. We'll call that item closed and ask the Secretary to read the call for the third item on the public hearing.

ITEM 3: Proposal to change the text of the Zoning Code so that certain existing and/or future land-uses in the non-development project area of the B-3 zone need not provide off-street parking except as part of a municipal parking program.

PROPOSED
CODE TEXT
CHANGE RE.
OFF-STREET
PARKING IN
B-3 ZONE

USES: Retail sales, Trades, Merchandising or similar uses, Restaurants, Offices, Recreational, Theater, Auditoriums, Churches, Gymnasiums, Places of Public Assembly. (Note that several uses permitted in the B-3 zone will still require provision of directly related off-street parking - that is all housing, hotels and inns).

CHAIRMAN SHAW
Excuse me - Commissioner Kalita says that - at least as he heard it, that the first line - you read it to read "non-development" whereas it should say "land uses in a non-redevelopment project area".

MR. REIF
It should indeed. Unfortunately, it was typed and in the paper

to say "non-development".

MR. REIF

That would make an improper call. You can decide that if you want.

CHAIRMAN SHAW

The question - The problem before the Commission - We might just as well get it out here to the public. Cos read the call the way it was published in the paper. It said in that first line "proposal to change the text of the Zoning Code so that certain existing and/or future land-uses in the non-development project area" whereas in our agenda it says "future land-uses in the non-redevelopment project area". Now, the question, obviously, is whether that makes it a call which is confusing to the public and, therefore, would make it improper inasmuch as "redevelopment" and "development" come under the same general category. I don't feel I am personally confused by it, but if you feel a concern about this, we probably should go through the steps of re-advertising.

MR. REIF

I think there's a real question. There's no question that there's no specific requirement anyplace for how to write such a call.

CHAIRMAN SHAW

Right.

MR. REIF

It could - Everything - Anything could be attacked in court and, of course, it's up to the judge to decide whether or not that was a mis-call. I don't think it probably caused any problem at all.

CHAIRMAN SHAW

No. As I said, I find no confusion -

MAYOR MARINO

I might point this out - I had a preliminary agenda which said "non-developing", "non-development" rather, and I interpret that to be "redevelopment", so I don't think there's any problem really.

CHAIRMAN SHAW

I want to be sure that we all understand what has been said in case the question -

COMM. KALITA

Non-redevelopment is correct.

MAYOR MARINO

It means "non-redevelopment". I assume that that's what they meant when they (inaudible few words).

COMM. KALITA

Before we go into the formal meeting, I would like to make a motion that the call of the meeting was typographically in error advertised-the section reading "non-development"; the correction should have read "non-redevelopment," and we proceed with the public hearing.

CHAIRMAN SHAW

You've heard the motion.

COMM. PASSANESI

I'll second that.

CHAIRMAN SHAW

Any discussion? In favor?

COMMISSION MEMBERS

"Aye" - Unanimous

CHAIRMAN SHAW

Opposed? All right. George, do you want to briefly outline the elements of this proposal?

MR. REIF

All right. Basically, every permitted land use in the City has a requirement for a certain amount of off-street parking. The requirements are sort of universal in the sense that it doesn't matter what zone you're in, you have a retail outlet - Well, let me come back to retail outlets. If you have the dwelling unit, you require a certain amount of parking space whether you're in an R-1 zone or B-3 zone and so on throughout. The same thing is true with restaurants whether you're in a B-2 zone or B-3 zone; you're required to have a certain amount of parking for each 50 square feet and universally throughout the city. There's only one exception to that basic truth, and that is that in the Central Business District the commercial establishments which are devoted to retail sales, trade, merchandise, and similar uses are excused from the requirements to provide off-street parking and that's the basis for the public hearing tonight which questions, frankly, whether or not some of the other uses that are very close to retail sales of one type or another - trade, merchandising or similar uses - it questions whether or not they, too, should not be excused. The requirement other places in the Central Business District is one parking space for each 100 square feet for area used for retail sales. Now, therefore, if you had a store in the B-2 zone in the shopping center, you would have to provide a certain amount of off-street parking, but if you were to build that in the B-3 or the Central Business District zone, you would not have to provide any, and there is a sincere question about whether or not whether you're selling a necktie or whether you're doing anything different (inaudible two words) and that's the basis of your - of the public hearing and, of course, above and beyond that little technical requirement or lack of requirement for off-street parking is the unique qualifications and characteristics of a Central Business District which requires having a certain tightness of scale. There's nothing that breaks up the shopping area more than the required off-street parking that is

characteristic of said shopping centers. Middletown is blessed by having a certain amount of permissibly sponsored off-street parking and without that, I simply wouldn't be recommending or in any way participating, I would think, with the concept that you could wipe out this requirement for off-street parking in the Central Business District but it's somewhat self-defeating to want to have a tight Central Business District and, on the other hand, try to have a requirement that each lot provide its own parking. I am sure others will bring out other facets of this.

CHAIRMAN SHAW

Are there any questions or comments of the Commission that you would like to ask of George? Is it clear?

MAYOR MARINO

For the uninformed - Could you spell out what the B-3 zone exactly is? encompasses?

MR. REIF

The B-3 zone - you mean in geographical area? OK. It runs on the west from Broad Street to DeKoven Drive - on the east it extends up to the railroad track in the North End and down to Union Street in the South End of town. That's rather simplistic. There are one or two exceptions; there's a little bit of B-3 on the west side of Broad Street and some of the area down to - say Church Street - in what is commonly called the institutional block is not B-3 but basically it is from the railroad north, Union Street south, Broad Street on the west to DeKoven Drive on the east. It is getting very, very tight. Areas have been maintained that way for a number of years.

MAYOR MARINO

This is basically the central parking district.

MR. REIF

Yes. As a matter of fact, the parking district was based on the B-3 zone.

MAYOR MARINO

How about your statement here about non-redevelopment projects? Can you explain why that exception is made?

MR. REIF

One of the reasons is a parking problem in all of the Central Business District of Middletown and every other city that same size is because they were developed - built before the automobile came into existence and they used to be a number of different methods of getting downtown - all the way from the horse and buggy which didn't seem to require as much parking space as the automobile to the more famous trolley and there were other types of public transportation which were good or evil and the things that were evil don't exist today; so the areas just were not established with the automobile in mind. The reason that there can be a difference between the older sections which are not going to be basically

removed and the ~~and the~~ redevelopment is that that's - the redevelopment project is a way to correct things that were absolutely uncorrectable through other planning techniques and, therefore, we can correct that in the redevelopment area. If the entire Central Business District was going to be part of a redevelopment, then we wouldn't have this problem; but the redevelopment concept per se opens the opportunity to correct something that cannot be corrected in the same way in the other part of the Central Business District.

CHAIRMAN SHAW

Any other questions? Conrad.

COMM. TYAACK

Yes, I have one. I don't know how much you change after the (inaudible word) how you can change your words through discussion but this proposal seems to be more restrictive than what we already have on the Section 33.05, although here it says it's an exception but you might want (inaudible three or four words) make that change. But here permanent - "In addition, requirements of the provision of the parking facilities may be satisfied by the permanent allocation of the required number of spaces for each use in a common parking facility, cooperatively established and operated," which under this could be private or municipal. The change proposed here would take away the private lot and would only allow the municipal. I wonder if that was intended that way or just the way the words came out.

MR. REIF

Where was he quoting from?

CHAIRMAN SHAW

33.05 did he say?

Yes.

MR. REIF

That's true. It does open the opportunity for a common parking facility. It still does not -

It makes an exception.

MR. REIF

It doesn't remove the requirements.

COMM. TYAACK

But it's less restrictive. This would be actually more restrictive if you put in the word "municipal".

MR. REIF

You know - one of the unique characteristics of Middletown and maybe another city someplace in the nation is that most cities have public parking facilities. Middletown, in a way, is blessed that it doesn't have any. You can't go rent a parking space for the general public to park and shop anyplace. You have got to use the public parking lot.

COMM. TYAACK

Some commercial businesses have their own lots.

MR. REIF

They have their own -

COMM. TYAACK

Some cities are now in that position where they - it was just went through some court cases where cities allowed to have special taxes upon parking facilities

MR. REIF

True.

COMM. TYAACK

to regulate the traffic in the city. We don't have that problem, I realize. It is an evolving thing.

MR. REIF

If you went to - let's take New York as an easy example. New York you see all sorts of parking lots. They are all privately owned. Obviously, that is not the case here. So that didn't appear to be one of the options, that there would be publicly -

COMM. TYAACK

but there are some

MR. REIF

that there would be privately owned public parking facilities.

COMM. TYAACK

There are some and there may be a case where someone would want it that way.

MR. REIF

Yes, well, that's something that shouldn't be excluded. Fundamentally, if the downtown parking is going to be provided (rest of sentence inaudible - background talking)

CHAIRMAN SHAW

Well, regardless of how you're convinced, Conrad's point is that you should not prevent someone from taking part in a private parking program if that were available.

MR. REIF

Right. Now, for instance, we don't want anything that would prevent the banks from having their own parking lots.

CHAIRMAN SHAW

Mayor, I am a little interested in your feeling about this - I don't want to put you on the spot on this but or to ask you to -

MAYOR MARINO

I didn't have to come you know.

CHAIRMAN SHAW

(Inaudible word) ahead of time that your Transportation Committee might be talking about in ways of parking but I do read that one of the things they may be concerned with.

MAYOR MARINO

We have nothing to do with parking actually; that's the Parking Authority's responsibility, but we're just trying to eliminate or alleviate the serious problems that we have in the lack of parking spaces downtown and so we are talking about transportation systems that may somehow help to solve the problem of parking. We can't provide downtown enough parking and I don't think (rest of sentence inaudible - two people talking). If everyone drives their cars, we're not going to be able to provide enough parking downtown. We're going to have a main street that is going to be alive and have facilities there that can be used, so we are just talking about alternate methods of -

CHAIRMAN SHAW

You don't perceive these two things being -

MAYOR MARINO

It is in line with the thinking we are talking about. If people don't use their cars, there is no reason for having parking lots so we would rather have the business there than the people on Main Street rather than the cars. That is going to be the task of the Transit Authority to try to create that kind of a situation. We want people and businesses and activities and not necessarily cars. We don't want downtown to be a big parking lot.

CHAIRMAN SHAW

I see that this is a little bit of Catch 22. We are competing downtown with the shopping areas around the town which have large parking fields. That is a part of their attraction and here we are saying we want downtown to become vital but, on the other hand, we are not requiring that the private entrepreneur supply that parking which is supplied (rest of sentence inaudible - 2 talking)

MAYOR MARINO

Nor can the City, because of land limitations and cost, provide that kind of parking either so (rest inaudible - two talking)

CHAIRMAN SHAW

And if people can't get there, they are not going to use the retail facilities that are there. I don't mean to be (inaudible one or two words), I just throw that out as one of the curious ironies of this kind of a problem. Any other questions from the Commission? If not, is there anyone in the public who would like to speak in favor of this proposal? Speak in favor?

BAXTER PATRICK

My name is Baxter Patrick. I live on College Street and I work in town and the surrounding area as a real estate broker. It would seem to me that if you could see your way clear to approve this of a modification, that it would have several advantages. One is that, visually, that is an important area that's under consideration

at the corner of Washington and Main and I don't see how it would be economically possible for someone to create facilities there including parking. I just don't see how a builder could accomplish this - maybe he can. I hope he can. It would also improve, I think, the general concern about the north end. We've had a lot of attention on Metro South planning in town, but the north end, perhaps, has had not quite as much attention. This would be closer to that end of town and if parking were to be required, it would seem to me to add a traffic hazard to that particular type of a corner. This, I realize, is not the only area under consideration but it's a vacant, available parcel of land now and it would be very fine to have an attractive structure erected, which might provide some additional taxes - a few additional jobs, perhaps, and attractive facilities for perhaps new people coming into town; so I hope that you may view this in a positive way. Thank you.

CHAIRMAN SHAW

Thank you. Anyone else who wishes to speak in favor of this?

SAMUEL FABIAN

My name is Samuel Fabian. I am a real estate broker in the City of Middletown. I spoke to this group, I believe, last month one time and I would prefer not to repeat some of the things I said at the time but I would like to bring your attention to one or more points. Tonight someone stated - stood up here and said something about preservation or something or other. Well, we're not talking about preservation of Main Street and I feel that it's more serious than what one can contemplate at the present zoning system that is now in force. I think that if it isn't changed, the inherent cancer that is now prevalent in our present zoning will be - will come forth and will develop within a number of years to come. I used the word here a couple of months ago - or last month - I said in twenty years ^{in 20 years} from now we'll see a cowboy town here and someone corrected me when I went out the door and said "Fabian, you're mistaken. You'll see it here in twenty years". Well, I don't believe that at all. I've been on the scene all my life in Middletown. I've been in the real estate business for 32 years. I am a professional, certified appraiser. I have appraised the values on Main Street a number of times and very recently I have done an appraisal from Washington Street - from Court Street to Washington St. for a few of my - a few of the commercial interests. What I wanted to call your attention to also - It was said to me that would you provoke a situation with the Redevelopment concerning what the Redevelopment would do and what Main Street will do. Well, if we're going to talk about the future and the vitality and the growth of Main Street and we leave it as it is and try to make a comparison with the Redevelopment without giving it any in-depth thought of value - and we're talking about money and we're talking about investments and we're talking about men that are going up Main Street to develop that and do something for themselves for their livelihood and create Main Street, U.S.A., the way it should be - well, what is happening here is that Redevelopment right now and rightfully so is development at the cost of \$1.75 to \$2.00 a square foot which means, in a sense, that an acre of land will cost approximately \$70,000. Well, I don't know whether you gentlemen realize it or have given it any in-depth thought, but if Main Street properties were to burn down - and conceivably they will - there is two empty lots right now -

that - taken at an acreage value - you couldn't buy it at today's value for \$350,000 because we are talking about value starting from Court Street to Washington Street and then with about a 10% depreciation in influence on the other side of the street from 1,200 to 1,500 lineal foot value and then when you talk about 50 feet by 125 feet and let's hypothetically say that's Camp's - I'm not sure - then you're talking about 6,500 square feet. Now if you take 6,500 square feet at a value of - I think I've made some notes here - at an average value of \$8.92 a square foot, there's no com - you're not going to have any competition between Main Street as it is today with the redevelopment at \$2.00 and \$8.92 - you're not going to get any investor. Now the point remains is that is the reason why the corner of Washington Street is stalemated for three years or more as it has and also the Green Street because no one in their life is going to pay \$8.92 or \$9.00 a square foot and try to get a return of 8% on their money; but you can go down to Redevelopment, Mr. Mayor, and you can buy 70 - you can buy a piece of land - an acre - for \$70,000 and get 8% return on your land. Forget about the improvements - and you can get it - You're not going to get it - you're going to get 25 - 20 and 25% return on your land in the redevelopment. The improvements are constant - they will stay the same down there and they will stay the same up here but a developer at this state of Main Street at \$8.92 will be paying \$350,000 for an acre of land he can't conceivably come up with an 8% return. He can't conceivably - that's without the improvements. So what in order to develop this thing for a conclusion - what I'm trying to say is that without changing the zone, we can look into the future - the inherent future - alone will be such that Main Street, U.S.A., will be a cowboy town in 40 years - not 20 as somebody corrected me. Maybe I am a little reluctant, but I happen to have Mr. and Mrs. Eldridge and their daughter right here and they're the owners of the corner of Washington Street and they're extremely depressed upon what has happened there, and if they would like to say something I would appreciate your listening to it. Thank you.

CHAIRMAN SHAW
Thank you.

COMM. KALITA
He made a comment that was on tape that we are (inaudible 2 or 3 words) a proposal to change the zone. We are (inaudible word) on changing the text.

CHAIRMAN SHAW
Yes. We're not changing the zone.

SAMUEL FABIAN
Pardon me. It's a modification - instituted modification of the zone.

CHAIRMAN SHAW
Of the text of that zone. I would like to point out to you although I am sure you understand - that we're not talking about that specific piece of property. We are talking about a much bigger thing for the whole town. Come right ahead.

PAUL ELDRIDGE

Well, I just wanted to speak from my point of view and confirm what Mr. Fabian said about the problem of selling property. It has been some time and it has been rather discouraging but we're still very hopeful.

CHAIRMAN SHAW

Would you give us your full name please?

PAUL ELDRIDGE

Paul Eldridge.

CHAIRMAN SHAW

And your address?

PAUL ELDRIDGE

120 L Rose Circle.

CHAIRMAN SHAW

Thank you. Is there anyone else who wishes to speak?

JACK MOSS

My name is Jack Moss. I am a real estate broker in Middletown. I'd like to mention the fact that I have spent 15 years on Main Street up until 1960 in management of one of the national chains, so I am familiar with the plight and the experiences of downtown merchants. In the past dozen years we have seen the demise or the leaving of Middletown of three of the chains - Grants, Jupiter and Montgomery Ward, and I think we have got to realize, too, that the present merchants in town are doing a diligent job in maintaining good stores, as was mentioned here before, and bringing people downtown. I think you have to realize, too, that there's a different structure of a retail store on Main Street versus the shopping center, and when a building - probably of 50 years - may be destroyed by fire or just wear and tear and have to be replaced, the consideration for on-street parking has to be resolved to give benefit to those who are here and also for bringing in additional shopping competition. The reduction of shopping facilities for the shopper - the attrition rate is quite high amongst the retailers - which is obvious throughout the country. With our economic conditions as we see it today. I think my purpose here is to ask for the proposal to go through - to bring more people into the downtown area where there is a higher tax base and to keep this viable area alive.
Thank you.

CHAIRMAN SHAW

Thank you. Is there anyone else who wishes to speak for this proposal? Is there anyone who wishes to speak in opposition to this proposal? Hearing none, I'll call -

COMM. KALITA

(Inaudible few words) final comment. In studying this, I see a big advantage in this area because looking what possibly can happen in the future, we can end up with a Main Street with a lot of drive-ways because if everybody decides to - the building burns down - remodel (inaudible - sounds like "half a driveway") put in their

own parking lot. That is my contribution.

COMM. PARISI

We're talking of the B-3 district and I know that Councilman Tyaack is concerned. I know the Mayor is concerned is that this is the first fire district and it's one high tax rate in that district and the more business the more things that we can put in the B-3 zone the better it is for taxpayers in the first taxing district and they are paying a rather high fire tax compared to those of us who may reside in either South Farms or Westfield. I think it's important that these type of changes be made.

CHAIRMAN SHAW

Any further comments? Yes, Conrad.

COMM. TYAACK

I would just like to praise Mr. Fabian for his enthusiasm in explaining the profits to be made by investing in our renewal. I would just like to send him around the State and across the country with a briefcase and maybe we would have some investors.

MAYOR MARINO

I was going to raise the rates in redevelopment.

CHAIRMAN SHAW

Thank you very much. I call the meeting - the public hearing portion of this meeting is closed and we will go immediately into our regular meeting session.

Respectfully submitted,

Eileen Rogers

Eileen Rogers
Transcribing Secretary

Ralph Shaw, II, Chairman
Planning & Zoning Commission