

**CITY OF MIDDLETOWN
PLANNING BOARD
MINUTES**

February 03, 2021

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on February 3, 2021 at 7:00 P.M., Mr. Anthony Capozella presiding.

Members Present: Anthony Capozella, Nicole Hewson, Gretchen Witt, Dan Higbie, Dave Madden, Andy Britto.

Other Attendees: Richard J. Croughan, Planning Board Attorney; Theron Adkins, Fire Inspector; Walter Welch, Building Inspector.

Members Absent: John Naumchik.

The Pledge of Allegiance was said.

Motion to approve the January 6, 2021 minutes by Mr. Britto, seconded by Mr. Madden.

Mr. Capozella pointed out that all first-time applicant appearances are considered a preliminary hearing and the Planning Board may or may not chose to act or vote on those applications tonight.

Scott Balfour
126 Sprague Avenue
Office

Mr. Capozella: Good evening, sir. Welcome to the City of Middletown Planning Board. We'll just take care of some business first.

Ms. Tu, do we have his mailings?

Clerk: Yes, we do.

Mr. Capozella: Okay. Mr. Balfour, will you just please describe what your intentions are.

Mr. Balfour: I'm a real estate appraiser office to complete my real estate appraisals and send them out to clients.

Mr. Capozella: Okay. Thank you. Before we go any further, we'll open the public hearing.

The public hearing was opened.

Mr. Capozella: Ms. Tu, do we have anything in writing?

Clerk: No, we do not.

Mr. Capozella: No telephone calls?

Clerk: No phone calls either.

Mr. Capozella: Miss Hansen, do we have anything online?

Ms. Hansen: We do not, no.

Mr. Capozella: We'll move on to the Board for now with any questions or comments on 126 Sprague Avenue. Anyone?

Ms. Hewson: Your hours of operation, Mr. Balfour?

Mr. Balfour: Monday through Friday, 8:00 to 5:00.

Mr. Higbie: You have 8:00 to 6:00; right? 8:00 to 6:00 on your --

Mr. Capozella: Yeah. Let me just jump in. I don't mean to interrupt you, but Mr. Balfour, we kind of worked out appointment hours. Is it appointment only for now?

Mr. Balfour: Yes.

Mr. Capozella: But he did say Monday through Friday, 8:00 a.m. to 6:00 p.m., Saturday would be 8:00 a.m. to 4:00 p.m., and Sunday would be 8:00 a.m. to 4:00 p.m. Basically, Saturday and Sunday wouldn't be for public use. It would be just for his office use. Is that correct, Mr. Balfour?

Mr. Balfour: Yes. That is correct.

Mr. Capozella: Because we're try to, even though he's in a neighborhood, that Mr. Balfour will not go to work any earlier than 8:00 a.m. and not stay any later than 11:00 p.m. That's what he agreed to because he does have times he deals with California, and he may have to stay a little bit later.

Any other questions from the Board?

Mr. Croughan: Mr. Welch, any issues with it?

Mr. Welch: No. I'm glad to see somebody finally get in there.

Mr. Croughan: And Mr. Adkins, any issues?

Mr. Adkins: No issues. All good.

Mr. Capozella: Okay. Anything else from the Board members?

We'll go back to the public hearing.

Ms. Hansen, has anyone come online?

Ms. Hansen: Not for this. No.

Mr. Capozella: In that case, I'm going to close the public hearing.

The public hearing was closed.

Mr. Capozella: I'll give the Board one more chance for any questions or comments.

On the resolution for 126 Sprague Avenue, real estate appraisal office with hours of operation Monday through Friday, 8:00 a.m. to 6:00 p.m.; Saturday and Sunday, 8:00 a.m. to 4:00 p.m. Limited public use on Saturday and Sunday. Mr. Balfour to be there no earlier than 8:00 a.m. and no later than 11:00 p.m. Monday through Friday. Subject to Middletown DPW and Middletown Fire Department inspections and approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown and the State of New York, if applicable. If throughout any of this review process the project is deemed to require any bulk requirement tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Motion by Ms. Hewson, seconded by Mr. Britto.

Roll Call Ayes: David Madden, Andy Britto, Gretchen Witt, Nicole Hewson, Dan Higbie, Anthony Capozella.

**Gustavo Chan Way
125 Dolson Avenue
Car dealership and car repair shop**

Mr. Capozella: Who's on the line?

Mr. Way: This is Gustavo Chan Way from North End 1 Auto Repair.

Mr. Capozella: Okay. Welcome.

Mr. Way: Thank you. Hello.

Mr. Capozella: All right. Just hang on a minute, Mr. Way.
Do we have his mailings, Ms. Tu?

Clerk: Yes, we do.

Mr. Capozella: Okay. Mr. Way, please just describe what your intentions are.

Mr. Way: Well, we opened up a mechanical/dealership, and we're requesting the Board of Middletown if we can use 12 parking lots in the front for dealer cars and parking in the back for mechanic cars, cars that are going to be fixed.

Mr. Capozella: Okay. And just so the Board knows, we've had discussions with Mr. Way and his landlord, who is the real estate property manager of ShopRite there, that whole plaza, and that's how we developed this site plan for parking. This is between the landlord and really the tenant. We don't own this property ourselves in the City of Middletown, so it's an agreement between the tenant and the landlord. The landlord actually likes us to help him enforce, so we're going to go by this plan that Mr. Way has agreed to and the landlord has agreed; all right?

One thing you need to understand, Mr. Way, I don't know if it came up in our conversation in preliminary, but your customer parking by the daycare area, just for customer parking on that day. It's not for storage. It's not for overnight parking. It's simply for customers who come in during the day and then leave during the day. Do you understand that?

Mr. Way: Yes, sir.

Mr. Capozella: Okay. And in the rear, obviously you know the spots that are designated for your cars.

Mr. Way: Mm-hmm.

Mr. Capozella: It's basically so it doesn't turn into a junkyard. All cars must be saleable so to speak, inspectable, ready for resale or ready for use.

Mr. Way: Okay.

Mr. Capozella: Also, I did notice that in the back there you also have a boat.

Mr. Way: Yes. That was going to be one of my questions. That boat is for repair, but we don't exactly know what's wrong with it. I should just get it out of there, right?

Mr. Capozella: That would be a big help. Yes.

Mr. Way: Okay. I will get it out of there. No problem.

Mr. Capozella: Yeah. We're not totally against you making a repair, but it's not a storage area.

Mr. Way: Yeah. No, I get that. Okay.

Mr. Capozella: Okay? I'm glad you brought that up. Thank you.

Mr. Way: Yup.

Mr. Capozella: And I'm just going to let everyone know that as of right now that your hours of operation are going to be Monday through Friday, 9:00 a.m. to 5:30 p.m.; Saturday, 9:00 a.m. to 5:30 p.m., closed on Sunday.

Mr. Way: Yes.

Mr. Capozella: Okay. Of course, being a repair shop, you're going to incorporate all proper

disposal of waste products.

Mr. Way: Yes, sir. I have separate containers for oil rags, I have a separate container for filthy oil, separate container for radiator fluid, and then I either sell the oil to other companies and dispose of the radiator fluid with a company, Sisco. They help me out.

Mr. Capozella: Okay. Great. So I'm going to open the public hearing.

The public hearing was opened.

Mr. Capozella: Anyone from the public wishing to address this issue -- Ms. Tu, do we have any written response?

Clerk: No, we do not.

Mr. Capozella: Do we have anyone on the telephone line?

Clerk: Nobody on the phone.

Mr. Capozella: Ms. Hansen, do we have anybody online?

Ms. Hansen: We do not.

Mr. Capozella: Okay. Let's go to the Board momentarily with any questions or comments.

Mr. Way: Can I ask one more question?

Mr. Crpozella: Sure. Go ahead.

Mr. Way: I know I'm only allowed a certain amount of spots in the back, but during a big snowstorm like we just had, am I allowed to briefly move my dealer cars to the fire lane side to just park on the side in the morning? I'd move them back to the spot after the plowing.

Mr. Capozella: I would think that's more up to your landlord, but as long as they're in the proper position when our Code Enforcement people come around. That's what we are looking for.

Mr. Way: Okay.

Mr. Capozella: We understand you have to clear your lot.

Mr. Way: So they're not in the way of the plows.

Mr. Capozella: Okay. We understand you have to clear your lot with snow and you have to do what you have to do, but try to put them all back in place when you're done.

Mr. Way: Yup. Okay. Perfect.

Mr. Madden: He didn't just suggest he parks them in the fire lane, did he?

Mr. Capozella: Pardon me?

Mr. Madden: Did he just suggest he parks them in the fire lane while they're waiting for plowing?

Mr. Capozella: There really is no fire lane there, but what they've asked him to do, there's a spot in the very back where he's been -- there's like five spots. They've asked him not to be there for truck traffic, delivery truck traffic, with the tractor trailers. I don't know what he meant by fire lane. There is no fire lane there so to speak.

Mr. Way: Yeah. It's the side of the building.

Mr. Capozella: Yeah. I believe his intent is not to block the fire lane forever but to move his cars out of his spots, plow them, and then put his cars back. That would be done in a timely fashion, Mr. Way; correct?

Mr. Way: Yes. As soon as it's done in the morning, I'll move them back.

Mr. Capozella: Okay. Okay, Mr. Madden? All right.

Mr. Croughan: Any issues, Mr. Welch?

Mr. Welch: I have no problem with this whatsoever.

Mr. Croughan: Any issues, Mr. Adkins?

Mr. Adkins: As long as there's no auto body work, spray booths being installed. He can do a small amount of painting and repair, and I've had this discussion with him, but no spray booths, no commercial painting.

Mr. Croughan: So can we make sure that's in the --

Mr. Capozella: I can put it in the resolution. Do you understand that, Mr. Way?

Mr. Way: Yes, sir. Yes, sir. Well, we don't even paint there anymore, so we still have some painting stuff there, yes, but we don't paint cars anymore. We just sand them and tape them. That's about it.

Mr. Capozella: Okay. Thank you. All right. We'll check the public hearing briefly.
Ms. Tu, anything?

Clerk: No one.

Mr. Capozella: Ms. Hansen, anything for the public hearing?

Ms. Hansen: No.

Mr. Capozella: All right. I'm going to close the public hearing and give the Board one more shot for questions or comments.

The public hearing was closed.

On the resolution for 125 Dolson Avenue, auto repair and auto sales, hours of operation will be Monday to Friday, 9:00 a.m. to 5:30 p.m.; Saturday, 9:00 a.m. to 5:30 p.m.; closed Sundays. Parking will be as per the plan submitted to the Planning Board for customer auto sales and any storage of the cars and trucks as per the plan submitted. No auto body work as per Code and no spray painting. Subject to Middletown DPW and Middletown Fire Department inspections and approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown and the State of New York, if applicable. If throughout any of this review process the project is deemed to require any bulk requirement tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Motion by Mr. Britto, seconded by Ms. Witt.

Roll Call Ayes: David Madden, Andy Britto, Gretchen Witt, Nicole Hewson, Dan Higbie, Anthony Capozella.

Bryce Goddard (*continuation of January 6, 2021 meeting*)

57-65 Dolson Avenue

A gaming store

Mr. Capozella: Mr. Goddard at 57-65 Dolson Avenue, a gaming store, is a holdover from last month. Mr. Goddard had one major issue that he needed to resolve. How are we making out with that, sir?

Mr. Goddard: I wish I had like an email proof. I probably could get it to you tomorrow. The superintendent, the guy that manages the outside is named Eddie. I don't know if anyone knows him there that's currently amongst you gentlemen and ladies. He was working to get the permit approved, which he told me he got approved today, but I wasn't able to contact him, so I assume he's going to give me a call tomorrow saying that the door in the back to be starting within the next week or so.

Other than that, everything else seemed to check out. I haven't heard anything in terms of any other problems since just getting the door for the second point of egress. That's about it.

Mr. Capozella: Okay.

Mr. Goddard: I just wish I had something. I asked him to give me like some proof to send to Martina as well, but he didn't get it in time, so I'm going to give him a call tomorrow.

Mr. Capozella: All right. We're going to carry on. We have the public hearing that's open. Martina, do you have anyone on the phone?

Clerk: No, I do not.

Mr. Capozella: Ms. Hansen, anyone online?

Ms. Hansen: Not at this time.

Mr. Capozella: Okay. All right. The issue was that -- the major issue was a means of egress at the back of the shop or the gaming store and Mr. Adkins, I guess, you are aware that they're in process?

Mr. Adkins: Yes. I met with the gentleman that's contracted -- the building super for lack of a better term that's working over there. Myself and the Building Inspector went over there. He has a game plan in place. He is putting his permit paperwork in. He knows what he needs to do and how he needs to accomplish it, so I think we're just waiting for the permit process to unfold.

Mr. Capozella: Okay.

Mr. Adkins: They are working diligently on it, and I'm confident that they'll have that door in.

Mr. Capozella: Well, that's okay. I'm confident too, but Mr. Goddard will probably -- I'm going to present this to the Board as a subject to. In other words, once the permits are in place, once the door is in place, once the work is completed and approved by DPW and the Middletown Fire Department, then you will be able to obviously occupy the building or start preparing the space for your use. Do you understand that?

Mr. Goddard: Yes.

Mr. Capozella: Okay. Board members, any questions or comments? Okay. We will do that subject to. If he doesn't put the egress in, approval null and void; okay?

Mr. Croughan: The public is still open. You have to close it.

Mr. Capozella: Oh, correct. All right. Sorry about that. Back to the public hearing.
Ms. Tu, anything?

Clerk: No.

Mr. Capozella: Ms. Hansen?

Ms. Hansen: Not at this time.

Mr. Capozella: Okay. I'm going to close the public hearing. Board members, one last shot.

The public hearing was closed.

On the resolution for 57-65 Dolson Avenue, a gaming store, hours of Monday through Thursday, 4:00 p.m. to 11:00 p.m.; Friday, 4:00 p.m. to 12:00 a.m.; Saturday 10:00 a.m. to 11:00 p.m.; Sunday 12:00 p.m. to 9:00 p.m. As per plans submitted by the applicant and subject to the

completion and the approval by DPW and Middletown Fire Department on the means of egress in the rear of the store. Subject to Middletown DPW and Middletown Fire Department inspections and approvals and, when necessary, approval of the Commissioner of Public Works. The applicant will obtain all necessary permits and follow the permitting process, codes and ordinances of the City of Middletown and the State of New York, if applicable. If throughout any of this review process the project is deemed to require any bulk requirement tables, the applicant will supply said tables through an architect or engineer licensed in the State of New York.

Motion by Mr. Madden, seconded by Mr. Higbie.

Roll Call Ayes: David Madden, Andy Britto, Gretchen Witt, Nicole Hewson, Dan Higbie, Anthony Capozella.

Motion to adjourn by Mr. Higbie, seconded by Mr. Britto.

Roll Call Ayes: David Madden, Andy Britto, Gretchen Witt, Nicole Hewson, Dan Higbie, Anthony Capozella.

Adjourned 7:35 p.m.

Respectfully Submitted,

Diane Genender, Transcriber