

**CITY OF MIDDLETOWN
PLANNING BOARD
MINUTES**

January 4, 2017

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on January 4, 2017 at 7:00 P.M., Mr. Anthony Capozella presiding.

Members Present: Anthony Capozella, Dan Higbie, Paul Thorn, Steven Sisco, Nicole Hewson.

Members Absent: Laurence Risdal, John Naumchik.

Other Attendees: Alex Smith, Assistant Corporation Counsel.
The Pledge of Allegiance was said.

On motion of Mrs. Hewson and seconded by Mr. Thorn to appoint Mr. Capozella the acting chairman for the January 4, 2017 Planning Board meeting.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Nicole Hewson, Anthony Capozella.

Mr. Capozella: Typically I have to just announce too that if you are here for the first time this evening it is taken as a preliminary hearing which means that this Board has the right not to vote on your application or to vote on your application depending upon the information that we get this evening.

On motion of Mr. Dan Higbie and seconded by Mr. Paul Thorn to approve the minutes of December 7, 2016 as submitted.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Nicole Hewson, Anthony Capozella.

**Missionary Society of Our Lady of Mount Carmel
48-66 County Highway 78
164 unit integrated housing - six month extension**

Mr. Capozella: We have received the letter of extension from Pietrzak & Pfau.
“Dear Mr. Risdal, please let this letter serve as our request for an extension of a

special use and site plan approval. The project has completed a full application to the State of New York for project funding. This application is currently being reviewed and we anticipate funding in the very near future. We anticipate obtaining a building permit to start construction on or around March 1, 2017. Tree clearing on-site is anticipated to start this week. Please place this item on tonight's Planning Board agenda for the extension. Should you have any questions or require anything further please do not hesitate to contact our office. Very truly yours, Pietrzak & Pfau." This is simply just to extend the time for their budgeting.

On motion of Mr. Dan Higbie and seconded by Mr. Steve Sisco to approve the request of Missionary Society of Our Lady of Mount Carmel for six month extension.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella.

Abstain: Nicole Hewson.

Erqian Na, Hongwei Wu, Jianhong Xiong
65-67 Wickham Avenue
Real estate office on the 1st floor and one-family residential on the second floor

Handed in mailing.

Mr. Capozella: Please step forward ladies. How are you doing this evening?

Mrs. Xiong: Good, thank you.

Mr. Capozella: Do you want to just briefly explain what you are doing this time?

Mrs. Xiong: Yes, sure. We have decided to use the first floor as a real estate office. One of us is a real estate broker so what we need to do just to establish some sort of business up there.

Mr. Capozella: Pull that mike a little closer to yourself please. Thank you.

Mrs. Xiong: Basically the room actually we don't need to do any alterations right now. If we are to set up the business over there it's just the furnishing.

Mr. Smith: Now, on the first floor that's where the office is gonna be, correct?

Mr. Higbie: Right, that's what it says in the... I was going to ask... I was going to get into that too. Yes, real estate office on the first floor and...

Mr. Smith: The question I think we are having is that some of the first floor looks like it's going to be used for residential – you've got a dining room, a family room and a living room.

Mrs. Xiong: No, that's not true. That's the existing. That's the original plan.

Mr. Smith: That's the existing? That's not the plan.

Mrs. Xiong: No, our new plan is to make some changes.

Mr. Smith: So the new plan is...

Mrs. Xiong: Conference room, office.

Mr. Smith: So you took out a family and the... all right. And then on the second floor you are proposing an apartment. Where is the kitchen and bathroom facilities on the second floor?

Mr. Higbie: Bathroom is there.

Mrs. Xiong: Second floor already has 3 bathrooms, full bathrooms and the kitchen will be on the first floor. So, yes...

Mr. Smith: How is that? I thought you removed the kitchen from the first floor.

Mrs. Xiong: No, the kitchen is still there.

Mrs. Na: We don't need to do any alterations.

Mr. Smith: Where is the kitchen on the first floor?

Mrs. Na: Back.

Mrs. Xiong: In the rear and there are three entrances, separate entrances on the first floor from outside. And also there are two stairways from the back – from the kitchen and also from the side entrance.

Mr. Smith: Well, is there an inside... The people are gonna be living on the second floor. Can they access the kitchen from the inside of the building or they have to go outside?

Mrs. Na: Inside. They have the stairs.

Mr. Smith: Direct to the kitchen?

Mrs. Na: Yes.

Mr. Thorn: Is the kitchen separated from what would be the office?

Mrs. Xiong: Right now we don't have any walls to separate it but we can close one door.

Mr. Smith: How are people who are going to be in the office, either as employees or customers or clients, gonna access the bathroom?

Mrs. Xiong: Yes... So from the breakroom we may need to open the door to the bathroom. But right now we don't intend to open the business like immediately. She's the one who's going to be using the office.

Mr. Smith: See I don't know that the State Code allows this on the second floor the way you had it with no kitchen and no living room. Unfortunately Walter is not here. He's not coming in Martina?

Clerk: No, he is sick.

Mr. Smith: I mean we gonna have to get... make sure the building inspector is gonna approve of this before we can really act on it. Do you understand what I'm saying? I just don't know as I sit here the code issues that come out with having... how many bedrooms is it on the second floor?

Mrs. Xiong: Four bedrooms.

Mr. Smith: Four bedrooms but no living room and no kitchen. I don't know if that's allowed, off the top of my head. So we gonna have to check that out, all right?

Mr. Capozella: The Board was under the impression that this was gonna be revised but I guess it only got revised for the real estate office.

Mr. Smith: Well, you made a substantial revision. It's no longer a show room facility, you took our suggestion and I think that was wise we just have to check out the ability to have an office on one floor with some parts of the apartment upstairs on the first floor and bedrooms upstairs without those kinds of facilities. I just don't know off the top of my head if that's allowable or not. We gonna have to check it out. We gonna have to hold the public hearing open and this is not in the downtown business district so it will not be effected by the moratorium.

Mr. Capozella: We had the public hearing that remains opened from last month so if there is anyone here from the public that wishes to speak on this application you can step forward at this time if you would like.

Mr. Thorn: I would just like to add that I really appreciate the change from the retail-showroom to the real estate office. I think this is really just a configuration issue how it will be set up I think. I mean I appreciate the change that you've made thus far.

Mrs. Xiong: Thank you.

Mr. Capozella: Does anyone else from the Board wish to make a comment?

Mr. Sisco: I'm just curious is this supposed to be a one family on the second floor?

Mrs. Xiong: Yes.

Mr. Sisco: I mean, four bedrooms how many people would it accommodate do you think? Without...you know...

Mr. Smith: Well, that's one of the issues that I'm raising – I don't know how many people could be accommodated without a kitchen and a living room facility. That's part of a code issue. The code is actually quite complicated with it. If you have certain amount of bedrooms and certain amount of people in the bedrooms there's got to be a concomitant space for kitchen and living room facilities. And I don't know if that's satisfied by having them on a different floor in an office setting. I don't know but that's part of the issue is how many people could be accommodated up there. But your intent is a single family?

Mrs. Na: Yes, we are thinking there's four bedrooms probably three bedrooms and one room will be a family use for a living room or a family room.

Mr. Smith: Well I think it has to be a single family the way I'm reading it. This is a C-1A so it's got to be a single family.

Mrs. Na: And the kitchen because there are three stairs inside so two of the stairs, one from the kitchen directly goes upstairs so I'm thinking this is the office, don't need a kitchen. Just thinking the way, which way can go to that bathroom. The office need that half bath that's true. So we were just thinking people live upstairs will use the kitchen downstairs but they can totally separate from the front because they have their own stairs.

Mr. Smith: You might want to make an appointment to see Walt Welch when he gets back in and you can talk to him about what his ideas are.

Mr. Capozella: That would be great.

Mrs. Na: Yes, yes.

Mrs. Xiong: So we'll have to come back?

Mr. Smith: Yes.

Mr. Capozella: Unfortunately.

Mr. Smith: He's sick so...

Mr. Capozella: Are there any other comments from the Board?

Mrs. Hewson: Just one brief comment. If I were to potentially rent that apartment I would be concerned about security, if someone has full access to my apartment through walking through the office. So I mean that would be concern to me as a potential renter.

Mr. Capozella: Hopefully Mr. Welch can factor that in too. Anybody else from the Board wish to make a comment?

No one came forward and Mr. Capozella kept the public hearing open.

Mr. Capozella: Unfortunately at this time we have to... I need a motion for adjournment for future consideration. You'll meet with Mr. Welch, work out the

logistics of the top floor of the apartment and will have to come back next month.

On motion of Mrs. Hewson and seconded by Mr. Higbie that the Middletown Planning Board hereby adjourns for future consideration the application of Erqian Na, Hongwei Wu, Jianhong Xiong for a special use permit and site plan approval in order to have a real estate office on the 1st floor and one-family residential on the second floor located at 65-67 Wickham Avenue, Middletown, New York.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella, Nicole Hewson.

**My Choice Pregnancy Care Center
18 Grove Street
Crisis pregnancy center**

Handed in mailing.

Mrs. Rodriguez: Hello, how are you?

Mr. Capozella: How are you? How are you doing?

Mrs. Rodriguez: I'm well, thanks.

Mr. Capozella: Please just a brief description.

Mrs. Rodriguez: I'm Kim Rodriguez; I'm the executive director of My Choice. We are a non-profit organization; we have a federal tax ID number. We are located in New Windsor, we also have a small office in Port Jervis at this time. We are looking to coming to the City of Middletown. We offer free, to anybody regardless of whether or not you have insurance, we offer free pregnancy testing, we offer ultrasound, we offer free STD testing and treatment and we help advocate for the girls to educate them and empower them. Do you need any more information than that?

Mr. Capozella: No, that's good, I'm trying to multitask.

Mrs. Rodriguez: Ok.

Mr. Capozella opened public hearing. No one came forward and Mr. Capozella closed public hearing.

Mr. Smith: So you are making an application as a medical/dental practitioner? Is that fair to say?

Mrs. Rodriguez: Yes, I guess so.

Mr. Capozella: And according to your application there are going to be no abortions or any medical procedures whatsoever.

Mrs. Rodriguez: The only medical procedure that we perform is ultrasound and we have registered nurses and we work under the licensed doctor Frank Imparrato, he is our medical director.

Mr. Smith: So do you need any kind of separate license from the State to open the facility?

Mrs. Rodriguez: No, no. We are fully insured, we have to carry medical malpractice and what not but no we don't need any additional insurance from the State. We operate right now at New Windsor we've been there for 10 years.

Mr. Smith: How many employees do you plan on having?

Mrs. Rodriguez: We will have... well, I'll be there, I'll be floating between the two offices, we will have a registered nurse. We are only planning on opening two days a week at this point and then we'll have a nurse and an advocate so there'll be two employees on site and possibly myself.

Mr. Smith: Unfortunately we don't have Walter here. What's the parking situation?

Mrs. Rodriguez: Oh there's a huge parking lot in the back.

Mr. Capozella: Could you tell me what permit to operate a... I couldn't tell by your application it says NFP. What is that?

Mrs. Rodriguez: I'm sorry?

Mr. Capozella: According to your application it says permit to operate NFP.

Mrs. Rodriguez: Oh yes, Non for profit.

Mr. Capozella: Oh, ok sorry.

Mrs. Rodriguez: Did I write that? I don't know. Sorry.

Mr. Capozella: Parking is ample.

Mrs. Rodriguez: Oh yes the parking is beautiful.

Mr. Higbie: When you are up and going like not now, when you have only two days a week but when you are going would it be just Monday to Friday anyway or...?

Mrs. Rodriguez: Yes, it would just be Monday through Friday, we may open on a Saturday morning or one late evening to accommodate the women and because of what we do privacy and confidentiality is very important so we try to be very respectful when we schedule clients coming in. We are anticipating some people walking in but parking shouldn't ever be an issue because you don't have 40 people show up you know it's by appointment only.

Mr. Smith: You only have one floor I see here.

Mrs. Rodriguez: Yes. It's on the first floor of the house.

Mr. Higbie: The parking isn't so much it's just whether or not we have to waive it because there is municipal parking right at the end of the block.

Mrs. Rodriguez: Oh, oh.

Mr. Capozella: Is there any other business at this property beside yours?

Mrs. Rodriguez: There's a renter.

Mr. Higbie: A tenant?

Mrs. Rodriguez: Just a tenant upstairs.

Mr. Capozella: A tenant? Residential living there? Ok.

Mr. Smith: Is there a current rental permit?

Mrs. Rodriguez: Rental permit for her or for me?

Mr. Smith: No, for the tenant.

Mrs. Rodriguez: Yes, they've been there before.

Mr. Smith: Are you gonna have a lease?

Mrs. Rodriguez: Oh yes I have one, they are just waiting to know if we get approved by you guys.

Mr. Capozella: All right, I'll open up questions to the Board.

Mr. Sisco: Are you gonna substation per say out of New Windsor?

Mrs. Rodriguez: New Windsor is where our main office is. We see clients there on Tuesdays and Thursdays. We'll be in Port Jervis through the end of January and then we'll be shutting it, it's a very small office. And then we'll be in Middletown hopefully on Mondays and Wednesdays for the time being.

Mr. Sisco: Ok, but the headquarters will be in New Windsor?

Mrs. Rodriguez: Yes, that's considered... that's where all our... that's where my office is, yes. All our files are there.

Mr. Sisco: Ok, thank you.

Mr. Capozella: I do have a question about your hours of operation.

Mrs. Rodriguez: We usually see the girls anytime between 9 and 4. So the last appointment will be about 4 o'clock.

Mr. Higbie: And then you'll have one night that you may want to be till 8 o'clock.

Mrs. Rodriguez: Yes.

Mr. Capozella: The reason why I ask is that we have to set this resolution up with the time period and if we strictly restrict it to Monday and Wednesdays you'll have to come back before the Board to add more hours so what we might do, with the Board's permission is Monday through Saturday, 8AM to 5PM.

Mrs. Rodriguez: Ok, perfect.

Mr. Capozella: And then as far as late evening is concerned I'm not sure...do you have a specific thought in mind as far as...?

Mrs. Rodriguez: Thursday.

Mr. Capozella: Thursday till when?

Mrs. Rodriguez: 8 o'clock.

Mr. Capozella: Ok we'll add that in there so that you don't have to come back.

Mrs. Rodriguez: Thank you, I appreciate that.

Mr. Capozella: Thursday, 8PM is late enough?

Mrs. Rodriguez: Yes, that's perfectly fine.

Mr. Capozella opened public hearing. No one came forward and Mr. Capozella closed public hearing.

On motion of Mr. Higbie and seconded by Mr. Sisco to approve the application of My Choice Pregnancy Care Center for crisis pregnancy center located on the first floor of the property at 18 Grove Street. Hours of operation will be Monday through Saturday from 8AM-5PM and late evening on Thursday to 8PM.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella, Nicole Hewson.

Mrs. Rodriguez: Thank you very much, I appreciate it.

Mr. Capozella: Just get in touch with Mr. Welch; he's not here today, he's our building inspector for any permits that will be necessary with the approval of the Department of Public Works and or Middletown Fire Department.

Mrs. Rodriguez: Ok. Thank you very much, I appreciate your time.

Francisco Felix

50 1/2-64 Genung Street

Used car dealership

Handed in mailing.

Mr. Capozella: How are you doing, sir?

Mr. Felix: Hi everybody.

Mr. Capozella: State your name for the record please.

Mr. Felix: My name is Francisco Felix.

Mr. Capozella: And give us a brief description of what you are doing Mr. Felix.

Mr. Felix: I'm trying to get auto sales used car dealer at 64 Genung Street. It's a great location space there. I'm trying to get a lot and office, no garage, trying to bring more business to town.

Mr. Smith: And you are already there, correct? You've been there for a while?

Mr. Felix: Yes.

Mr. Smith: Just so that the Planning Board understands, the City did basically a review of number of used car lots and automobile dealerships around the City to check and see if they were in compliance with Planning Board permits and whether they were grandfathered or not because we had a lot of dealerships growing in terms of the amount of cars that were out there. In fact yours had a lot of cars and we didn't find the permit for Mr. Felix so we suggested that he, number one make an application but also, number two decide on the number of cars because he can't park... he was parking in the back and that just can't happen and I believe he's done that; it's up to the Planning Board but that's how this came here. It's not a new business it's been there for quite a while.

Mr. Felix: 2008.

Mr. Smith: And just for the record you are limiting yourself to how many cars here?

Mr. Felix: About 30 cars.

Mr. Capozella: He's got 29 here, this may be the 30 right here, I'm not sure and then he has three parking spots for customers and one ADA for customers.

Mr. Smith: The three spots in front of the office are they customers?

Mr. Felix: That's for handicap space...

Mr. Smith: Handicap and customers. You are not gonna show cars there.

Mr. Felix: No.

Mr. Smith: Ok. So you basically have... our count is 29-30. So if the Planning Board approves they can make max 30 cars for show and you understand that if this is approved you got to put the cars in these spots; they can't be in other spots.

Mr. Felix: Correct.

Mr. Smith: That's part of the problem we had all around town. The Planning Board sets spots and you drive around and there's cars all over the place.

Mr. Felix: I understand, that's why we do the same way we...

Mr. Smith: Ok.

Mr. Capozella opened public hearing. No one came forward and Mr. Capozella closed public hearing.

Mr. Thorn: I'm not familiar with the history of this property. Did we have any of the issues with the state of the cars, being you know drivable? We kind of added that in recent used car lots things like that they can't be junk cars or anything, it has to be sellable state or whatever...

Mr. Smith: Not here. We've had that problem; that was part of the review we were doing all around the City. We haven't had that... Mr. Felix to my knowledge has not been charged ever; I never met him before the other day when this issue came up that nobody could find a permit. But you understand that these are sellable cars, no junk cars.

Mr. Felix: No junk cars.

Mrs. Hewson: Do you fix the cars on the premises?

Mr. Felix: Say again please.

Mrs. Hewson: Do you repair the cars on the premises?

Mr. Felix: I don't repair cars there, I don't have a shop there, just a lot and an office.

Mrs. Hewson: And do you sell car parts on the internet or cars on the internet?

Mr. Felix: No.

Mrs. Hewson: Ok. Just another comment – I've driven by several times and it always looked very neat and tidy to me.

Mr. Felix: Thank you.

Mr. Capozella: He's just here to further comply.

Mr. Smith: Right.

Mr. Capozella closed public hearing.

Mr. Capozella: I'm probably going to need your hours of operation and your days of operation.

Mr. Felix: We do Monday to Saturday between 8 to 5 o'clock, summer time a little bit more but right now we do 8 to 5PM.

Mr. Smith: So what's the outside that you need? 7 o'clock in the summer time?

Mr. Felix: Six. Just one more hour.

Mr. Smith: Ok.

Mr. Capozella: We could make it 8am to 6pm year around and you can adjust your hours accordingly.

On motion of Mrs. Hewson and seconded by Mr. Sisco to approve the application of Francisco Felix for a used car dealership located at 50-64 ½ Genung Street. The

applicant has agreed to as per his application plan have a maximum of 30 cars and as per the configuration submitted in his application he'll have 30 sellable cars, passable with the New York State inspection, no repairs on premises and he will have at least 4 spots for customer parking – three for customers and one ADA parking. Hours of operation will be Monday through Saturday from 8AM-6PM.

Mr. Smith: This is subject to DPW field approval, however you may not need it because my understanding is there are no DPW issues with your business, you have a State license so... but in case, we have to put it in there.

Mr. Capozella: We should probably include that there is an office on site as per his plan so that's included in the site plan.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella, Nicole Hewson.

Mr. Capozella: Just check in with our building inspector Walt Welch for any permits, anything that may be needed. We doubt it but please just check in with him.

Mrs. Rodriguez: Thank you.

Mr. Capozella: Thank you very much.

AA Deli Grocery and Fresh Juices House Corp.
154 Wickham Avenue
Deli and grocery

Mr. Capozella: Yes sir, could you present your mailings to the secretary?

Mr. Alshojaa: Oh, the mailings? I leave it in the car.

Mr. Capozella: You need to go get those sir.

Mr. Alshojaa: I'm sorry.

Mr. Capozella: It's ok, we'll wait.

Mr. Alshojaa: Ok.

Mr. Capozella: Go ahead.

Mr. Alshojaa left the chambers and returned.

Mr. Capozella: What has happened?

Mr. Alshojaa: I'm sorry because you know this time that's first time I'm coming and I don't understand that much English and I can't find receipt and I sent everything she give it to me all the names; this time I can't find the receipt.

Mr. Smith: You can't find it? You think you have it but you can't find it?

Mr. Alshojaa: I can't find it. Because I live in Yonkers and come back and I go... you know I'm not sure and I need it like that.

Mr. Smith: Did you go to the post office yourself?

Mr. Alshojaa: Yes, I paid \$25.00 and I make all the stamps for all these names and envelopes and I sent it.

Mr. Capozella: The post office may be able to give you another receipt, I don't know. Do you have a cancelled check or...

Mr. Alshojaa: I'm sure 100% that I do it.

Mr. Smith: But we can't act without proof of mailing. We need something. I mean why don't you take a look in your papers, that's number one maybe you got it somewhere. I don't mean right now I mean we gonna have to adjourn this for a month. Take a look in your papers, go home, take a look all over your house, get a cancelled check form the bank that you made payable to the post office, bring that to Martina, make a copy of it bring that to Martina and if I were you if you can't find that receipt, take the cancelled check, another copy of it down to the post office and see if they'll give you a new receipt. I don't know if they will or they won't.

Mr. Alshojaa: I pay in cash.

Mr. Higbie: Usually it's not just the cash register receipt, it's usually a list of all the names and it's certified. Martina can show you what it looks like but it's a certified mailing, like they put their seal on it that you had a letter for all those

people.

Mr. Alshojaa: Yes, I got (illegible).

Mr. Higbie: It's not just the cash register receipt.

Mr. Alshojaa: I ask him he say you don't need it. Yes he take the envelope, I told him...

Mr. Higbie: Martina, do you have one there that you can show him what it looks like?

Mr. Smith: I mean maybe the post office will have their own copy of the receipt, I don't know if they keep that kind of thing. We gonna have to adjourn this for a month but take a look in your papers...

Mr. Higbie: Ok, look what she has is that what you have?

Mr. Alshojaa: Yes, all of this. I told him I need the stamp she said you don't need it.

Mr. Smith: We got to have neighbors notified. Apparently one neighbor was notified, we got a letter but you know...

Mr. Higbie: Sounds like you may have to redo the mailing since we need the proof of it.

Mr. Smith: Why don't you... Do this. Take a look at home, see if you have any papers, call Martina and she and I will talk about it, we may have to send you back to the post office, maybe they will give you the same receipt back again, I don't know, that' would be the easiest thing. And if not, if we can't do anything then we'll have to do it all over again. I mean it's a strict rule, we have to have the neighbors notified.

Mr. Alshojaa: Ok.

Mr. Sisco: Mr. Chairman, just a question, for benefit of the doubt, if one person got it...

Mr. Smith: Yes, I understand, that's what I said, one person obviously... well, one person may have seen it in the newspaper, may have heard about it from word of

mouth, who knows. We don't know.

Mr. Capozella: We need the proof.

Mr. Smith: Because otherwise some neighbor can six months from now when the business is open say when this did come from?

Mr. Capozella: Right.

On motion of Mrs. Hewson and seconded by Mr. Thorn that the Middletown Planning Board hereby adjourns for future consideration the application of AA Deli Grocery and Fresh Juices House Corp. for a special use permit and site plan approval in order to have a deli and grocery located at 154 Wickham Avenue, Middletown, New York.

Roll Call Ayes: Dan Higbie, Paul Thorn, Steven Sisco, Anthony Capozella, Nicole Hewson.

Adjourned 8:45PM

Respectfully Submitted,

Martina Fu, Clerk