

**CITY OF MIDDLETOWN
PLANNING BOARD
MINUTES**

July 05, 2017

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on July 5, 2017 at 7:00 P.M., Mr. Anthony Capozella presiding.

Members Present: Anthony Capozella, Dan Higbie, Paul Thorn, Nicole Hewson, John Naumchik.

Members Absent: Steven Sisco

Other Attendees: Alex Smith, Assistant Corporation Counsel, Walter Welch, Building Inspector.

The Pledge of Allegiance was said.

On motion of Ms. Hewson and seconded by Mr. Naumchik to appoint Mr. Capozella the temporary chairman for the July 5, 2017 Planning Board meeting.

Roll Call Ayes: Paul Thorn, Dan Higbie, Nicole Hewson, Anthony Capozella, John Naumchik.

Mr. Capozella: I always make an announcement that if this is your first time here this evening it's considered a preliminary hearing and this Board has the right obviously not to advance your application on and not vote on it.

On motion of Ms. Nicole Hewson and seconded by Mr. John Naumchik to approve the minutes of June 7, 2017 as submitted.

Roll Call Ayes: Dan Higbie, Paul Thorn, Nicole Hewson, Anthony Capozella, John Naumchik.

**Autumn Sky Development Co.
1 Beattie Avenue
an auto shop and auto sale lot**

Mr. Morgante: Good evening everybody. My name is Michael Morgante. I'm the project engineer before you tonight for 1 Beattie Avenue. As I understand it, I was

contacted by Autumn Sky Development, Mr. Michalski, and requested to develop a parking plan for this site. So what we did was we took a look at the zoning code in the I-1 district and determined the square footage for the particular uses on the first floor which worked out to be 12 spaces. It is my understanding that the office space on the second floor associated with the #1 frame and masonry building, utilizes existing on street parking. The site has an auto dealership and an auto repair shop associated with it. Majority of the cars that are on the site are either for sale or are being repaired so a lot of the spaces that are provided in the back and in the front are utilized for majority of the automobile uses that are on site. Having said that, it's not like there's a lot of traffic on the site, if I can state it that way, in terms of like a public pedestrian use; essentially cars are maneuvered in and out of the site by the owner of the property as needed for recirculation of vehicles on the site. So as you can see we've got about 2 spaces shown in the front, the south-west corner of the site and we've got another 10 spaces shown in the north-east corner of the site; add together equals 12 spaces. To get to those spaces in the back you actually have to go through the auto repair shop – that's how they actually utilize that area, the back right now. There's a garage in the front, there's a garage in the back, they literally drive the cars through as they are using them or parking them and store them at the back and then when they are completed they relocate them as necessary through the building and exit out through the outside of the auto repair shop. That's pretty much the project that I have before you tonight in a nut shell and I'll take any comments or questions that the Board may have.

Mr. Smith: Now, Walter this was a furniture store, right?

Mr. Welch: Yes, sir.

Mr. Smith: Ok, so we have a grandfathered auto shop use here, is that fair to say?

Mr. Welch: I don't believe it was...

Mr. Smith: Because C-2... it looks like it was an auto repair before 2000 and my understanding, John, you were involved in this, is it was an auto repair before then and that was a permitted use in that zone there.

Mr. Naumchik: Yes.

Mr. Smith: So he has a grandfathered auto repair or auto body shop, is that fair to say?

Mr. Naumchik: And this is what zone?

Mr. Morgante: I believe it's I-2.

Mr. Smith: The application says I-1.

Ms. Hewson: My notes from the last meeting say it was grandfathered for auto repair but I don't know what the legality...

Mr. Smith: I think that's ...

Mr. Morgante: My mistake it's the I-1, yes.

Mr. Smith: It's the I-1. So you are really asking for the approval for auto sales which is relatively new and offices? I'm just looking at your application.

Mr. Morgante: Sure. I did not prepare the application. So Mr. Michalski and... I believe you guys had a public hearing back in April on this. All that was related to me and I'm here without any other support from the owner or attorney tonight was to prepare a parking plan that was ...

Mr. Smith: Who is the attorney?

Mr. Morgante: I don't even know who the attorney was.

Clerk: Mr. Grillo.

Mr. Capozella: Mr. Grillo?

Mr. Smith: Blame the attorney, it's all right.

Mr. Morgante: No, all I'm saying is that I was requested to put a parking plan together. If we are here tonight also to get potentially any approvals for uses that are not associated with this district, that's new to me.

Mr. Smith: Ok, all right.

Mr. Capozella re-convened [public hearing was kept opened] public hearing. No one came forward.

Mr. Capozella: Ok, I'm going to now offer questions up to the Board.

Mr. Naumchik: Now, these two spots that say #9 that's for the cars that are going to be for sale?

Mr. Morgante: Yes, they'll store some of those cars up front and some of those cars in the back; correct.

Mr. Naumchik: So all these spots are going to be for the cars that are going to be for sale?

Mr. Morgante: Yes, well for sale and for automobile repairs.

Mr. Naumchik: Now, where are the employees gonna park?

Mr. Morgante: I'm sorry, what's that?

Mr. Naumchik: Employees.

Mr. Morgante: They may be using on street parking.

Mr. Naumchik: And I'm still confused about where they are coming in. Are they driving in through here? Are they going to be driving... anybody be driving through here?

Mr. Morgante: No, there really will be no traffic. If there is any traffic on the site it will need to be manipulated by on site employees. So what will happen is employees will essentially maneuver cars throughout the site, they need to get to the rear of the site, they will actually drive through the garage door of the... I guess it's identified as the metal and stone building auto shop. There's a garage door in the front, there's a garage in the back, if they are both open you can drive straight through it to the back of the lot and store cars back there.

Mr. Naumchik: I would think that that should be shown on the plan because right now it looks like just a square building with no entrance.

Mr. Smith: So we are guessing on how to get back there.

Mr. Naumchik: Yes.

Mr. Smith: Just looking at the plan.

Mr. Morgante: We can either show a garage door or add a note to the plan.

Mr. Smith: And you are talking about the garage door on the metal and stone building?

Mr. Morgante: Correct.

Mr. Naumchik: Yes, there's one on this side and one on the other side.

Mr. Capozella: One on each end.

Mr. Morgante: Correct.

Mr. Naumchik: It doesn't show on here so that's why...

Mr. Smith: And they access that from this what you call blacktop area?

Mr. Morgante: Correct.

Mr. Smith: From Beattie.

Mr. Morgante: That's correct.

Mr. Smith: And is there any other parking other than what you've shown there on the right hand side of the map?

Mr. Morgante: No, there is none. We've shown the parking but again, if anyone's familiar with the site they are essentially stacking cars. So you possibly could get more vehicles stored on the site than what's shown because again on site employees are maneuvering the cars.

Mr. Smith: Well, this is a part of the City-wide attempt to bring facilities that sell cars or repair cars to some sort of order in terms of where they park them and where they store them because a year ago, if you drove around the City, the cars were just all over the place. So what we are trying to do is have people, you know, propose so that they can make their own decisions on where they want to park and propose to the Planning Board and have it set, so that 8 years from now, when somebody is out there and complains to us well, there are cars all over the place, we know what we have approved.

Mr. Morgante: Understood. The property in the back is bounded. If I recall correctly, there are buildings on ... not buildings but brush and what not and fences on either side so what I'm saying is essentially even though I got 10 spaces shown in the back you could potentially... and it wouldn't impact any of the neighbors, you could store more cars if they decided to park perpendicular spaces to the opposite property line where I'm showing right now. And if you have an attendant who is actually manipulating the cars kind of like valet parking you could say, you

could actually get more cars back there. I mean that's how this lot has to operate if they want to get more vehicles back there but again, what I've shown here is particularly meeting whatever the zoning code is requiring.

Mr. Smith: They don't want more cars now; if they want to do that what you are talking about, they would have to come back to the Planning Board.

Mr. Morgante: Understood.

Mr. Naumchik: Because the last time, didn't we give him a limit on how many cars we wanted?

Ms. Hewson: My notes say 4 plus 4 spaces.

Mr. Naumchik: So that's eight.

Mr. Capozella: We also, at that point in time let them know that they were impeding on other people's property and that's the reason I believe they developed this map so that they could put their cars back on their property. I have a question though. You are never going to use the parking or the driveway to access this lot?

Mr. Morgante: Could you be more specific?

Mr. Capozella: The driveway that comes off the Beattie Avenue...

Mr. Smith: It says concrete drive.

Mr. Capozella: It says concrete drive that you could conceivably access the lot.

Mr. Morgante: It's not intended to. I mean there is actually a pretty steep slope that goes up and it drops back down real fast so there is really no intention. I mean I left 12.2 foot wide isle in the front which is more than wide enough to get an 8-foot wide vehicle through and maneuver it through the property. So what's there now is how they are actually accessing the spots in the back right now so there is no intention to develop the concrete driveway.

Mr. Smith: That would be an emergency access though.

Mr. Capozella: I guess it can be.

Mr. Naumchik: And where are the railroad tracks?

Mr. Morgante: The railroad tracks are, do you see where the two spaces are located

in the south-west front corner I call it; they are on the other side of that. So, right here.

Mr. Naumchik: Because when I went to look at this property there was a boat there too.

Mr. Morgante: There is a lot of stuff there.

Mr. Capozella: There is a boat, there's a box truck so we'll put that in the resolution that they have to be on the property or properly stored.

Mr. Naumchik: That's why I wanted to see where the railroad tracks are because they are right by the railroad tracks I guess.

Mr. Morgante: If I could take one step back because you had mentioned 4 plus 4 spaces I guess they were discussed at the previous meeting. If I'm able to adequately show 12 spaces would that be ok with the Board that we actually can show 12 spaces? I mean those are 12 legitimate spaces that we are showing.

Mr. Capozella: Yes, we can approve your site plan for 2 parking spots in the front of the building and 10 in the rear on the plan as we see it.

Mr. Morgante: Right, that's fine.

Mr. Capozella: And we'll make it contingent upon revising the plan showing that there are two doors in the middle of the stone building auto shop that you can access the rear lot through the building. How the applicant does that is his means and methods, so to speak.

Mr. Capozella closed the public hearing.

Mr. Capozella: This may be a moot point because you are not the owner but we normally ask the hours of operation.

Mr. Morgante: I can contact the owner and I can place that on the plan.

Mr. Capozella: That would be acceptable.

Mr. Smith: You can put it on the site plan note.

Mr. Morgante: Ok.

On motion of Mr. Naumchik and seconded by Mr. Thorn to approve the application of Autumn Sky Development Co. for auto sales and auto sales office located at 1 Beattie Avenue. Hours of operation to be placed on the revised site plan, also access to the rear parking area shown through the metal and stone building auto shop, two doors on either end to show that accessibility. Also two parking spots will be allowed on the Beattie Avenue frontage and also ten spots in the rear of the building. And I believe the Board has also requested that anything that is not on your property please remove it or properly store it on the property. This approval is contingent on the approval of the Department of Public Works and Fire Department if necessary.

Roll Call Ayes: Paul Thorn, Nicole Hewson, Dan Higbie, Anthony Capozella, John Naumchik.

Mr. Morgante: Thank you.

Mr. Capozella: Ok, send your revised plan. DPW is going to follow up on that.

Mr. Morgante: Will do. Thank you.

Mazel Midland, LLC
55 Midland Avenue Extension
Warehouse

Mr. Capozella: Ok sir; just give us a brief synopsis of what you are doing with the property.

Mr. Eisdorfer: It's the building 55 Midland Avenue Extension. I just bought it from the City of Middletown and it's going to be a warehouse for items they sell on Amazon. They buy stock and they sell it for Amazon.

Mr. Smith: What number building is this? I know there are numbers ...

Mr. Eisdorfer: That's the Flanagan building.

Mr. Capozella: This is Flanagan's old building.

Mr. Smith: Oh, this is Flanagan Building!

Mr. Capozella: 55 Midland Avenue.

Mr. Smith: Ok.

Mr. Naumchik: Martina, did he have the mailings?

Clerk: Yes.

Mr. Smith: But we are still waiting for County Planning, Martina, what's the story with that now?

Clerk: Yes, we sent a new, revised plan but we haven't heard yet.

Mr. Smith: How long ago did we send them revised plans?

Clerk: We just got them last week, so...

Mr. Smith: Well, we have to give them 30 days, but this is the first time you are here anyway so...

Mr. Eisdorfer: Right.

Mr. Capozella: I had a quick question though on your Amazon warehousing. So what is that process? You buy things...

Mr. Eisdorfer: Buy things and just send it to Amazon and they sell it on Amazon, on the website.

Mr. Capozella: Oh, ok.

Ms. Hewson: What type of things?

Mr. Eisdorfer: They sell all kind of things. They sell vacuum cleaners, brooms, dishes, paper towels, bleach, shampoo...

Ms. Hewson: I see.

Mr. Thorn: So you are like a separate... I know like on Amazon they have different vendors and things like that where you are not getting it directly from Amazon, you are getting it from a vendor selling it on Amazon. Is that sort of how that would work?

Mr. Eisdorfer: Yes, they buy in bulk, trailer loads and they sell it for Amazon.

Mr. Thorn: Got it.

Mr. Smith: You warehouse it and they come out and buy it?

Mr. Eisdorfer: They don't come out, they ship it out.

Mr. Smith: They don't come out?

Mr. Eisdorfer: They ship it out.

Mr. Smith: So there's no public coming in?

Mr. Eisdorfer: No public, no.

Mr. Naumchik: So you will be having like UPS and delivery trucks coming in?

Mr. Eisdorfer: UPS, FedEx, trailer loads they ship in all kinds of trailers.

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

Mr. Capozella: Ok, anyone from the Board has any comments?

Mr. Thorn: Do you have info how many employees they would have?

Mr. Eisdorfer: They have 15. They are growing fast.

Mr. Higbie: I'm sorry, can you just explain what... the application is in with the County first?

Mr. Smith: That's because it's on the border with Wallkill so we have to refer it to County Planning. I believe County Planning wanted a revision of some sort.

Mr. Eisdorfer: They had a couple of items which I ... they had questions and I answered all the questions.

Mr. Smith: You addressed that but the law is they get 30 days so we really cannot act on it without them...

Mr. Capozella: But we can continue with the preliminary hearing.

Mr. Smith: We can do the preliminary. I wouldn't close the public hearing because the County may have some suggestions that we are not aware of yet. And if the County doesn't respond within 30 days we are free to act at the very next hearing.

Mr. Eisdorfer: Good. Thanks.

Mr. Capozella: Walter, is there anything in this building we need to inspect or follow up on or it will just be after the approval, the DPW inspection and Fire Department inspection?

Mr. Welch: Fire Department, not the DPW.

Mr. Capozella: Ok.

Mr. Welch: We owned the building... we had possession of the building for a while.

Mr. Smith: Part of it, I guess. There was a discrepancy with Wallkill over there.

Mr. Welch: But it would be up to Mr. McCarey, the Fire Inspector which Isreal deals with all the time anyway, so.

Mr. Eisdorfer: Yes.

Mr. Smith: And we haven't had any communication from Wallkill, have we, Martina?

Clerk: No.

Mr. Smith: Ok.

Mr. Capozella: I take it has proper number of parking spaces and everything is already done, we just wait for the County.

Mr. Smith: Oh yes, that place is...

Mr. Welch: It has ample parking.

Mr. Naumchik: There is not going to be any hazardous material or anything inside of the building, right?

Mr. Eisdorfer: No.

Ms. Hewson: Are there any traffic concerns Mr. Welch?

Mr. Welch: Excuse me?

Ms. Hewson: Are there any traffic concerns?

Mr. Welch: No, the road dead ends. There is no thoroughfare.

Ms. Hewson: No, I mean going through the City with lot of tractor trailers and...

Mr. Welch: Excuse me?

Ms. Hewson: When the trucks are coming in through the City there's no traffic concern?

Mr. Welch: That will be no problem whatsoever.

Ms. Hewson: Ok.

Mr. Welch: It used to be old railroad station.

Ms. Hewson: Ok.

Mr. Naumchik: That section was made for industrial, to get in and out especially for this reason.

Ms. Hewson: Yes, ok.

Mr. Capozella: While we have the applicant here what would your hours of operation be? Might as well get that out of the way.

Mr. Eisdorfer: I'm not the owner, I'm the owner of the building, not the owner of the business.

Mr. Capozella: So it hasn't been determined yet.

Mr. Eisdorfer: But I see they work 9-5 every day and Sunday as well. Fridays till about 2 o'clock.

Mr. Capozella: Friday around 2 o'clock; 9-2. Ok, so we understand that Planning Board is waiting for County approval or at least a response so at this point in time for this application we need to have a motion to adjourn for future consideration.

On motion of Mr. Higbie and seconded by Mr. Naumchik to adjourn for future consideration the application of Mazel Midland LLC for a warehouse located at 55

Midland Avenue Extension, Middletown, NY.

Roll Call Ayes: Paul Thorn, Nicole Hewson, Dan Higbie, Anthony Capozella, John Naumchik.

Mr. Smith: Martina, I would suggest just putting this on the next agenda.

Clerk: Ok.

Mr. Smith: That agenda is not overly big, I take it. We are talking about August, first week of August.

Clerk: Yes, so far we are ok.

Mr. Capozella: You might as well stay up there.

Abjo Realty Corp.
17-39 Midland Avenue Extension, Bldg. #6
a loading dock, distribution and warehousing facility

Mr. Capozella: And the applicant is already there.

Mr. Eisdorfer: They do the same.

Mr. Capozella: It's the same Amazon thing. Each ... in fact the building #12 is the same exact application, correct?

Mr. Eisdorfer: Yes.

Mr. Thorn: You wouldn't be the owner of the business; you are owner of the building, correct?

Mr. Eisdorfer: Yes.

Mr. Thorn: Could there be a warehouse for another purpose or does it have to be Amazon?

Mr. Eisdorfer: No, it doesn't have to be Amazon. I do myself... we do flower, baking flower packaging, we have a couple of body shops, they have a battery company.

Mr. Capozella: Are we also waiting for County...

Clerk: No, these two properties...

Mr. Capozella: It's not Walkkill line, is it?

Clerk: No.

Mr. Capozella: Ok.

Mr. Smith: And there's parking for only 15, Walter is that good enough?

Mr. Welch: What shows on there is ample. They are showing... they have enough parking. They can have more but I think they only put down what they really need.

Mr. Smith: Ok.

Ms. Hewson: Same hours of operation?

Mr. Eisdorfer: Yes.

Mr. Naumchik: Do both of your applications, both say building #12?

Mr. Smith: This is building 6.

Mr. Capozella: One says 6, I believe. You have one that both say 12?

Mr. Naumchik: Yes.

Mr. Smith: Oh, I see what you are saying John, the second page says building 12 on the map.

Mr. Capozella: Yes, 6 and here is 12.

Mr. Naumchik: My both applications say 12.

Mr. Smith: It's not only 6, right?

Mr. Eisdorfer: It's 6 and 12.

Mr. Smith: It's the same property.

Mr. Capozella: Two different buildings.

Mr. Smith: Building 12 plan that is attached to the application is limited to building 12. I just don't want there to be confusion somewhere down the road.

Mr. Naumchik: Yes, that's what I was thinking.

Mr. Smith: What's attached to building 6 says existing layout for building 12. Is that just a typo? I know you are applying for both.

Mr. Eisdorfer: Yes.

Mr. Smith: But they are separate applications.

Mr. Eisdorfer: Yes.

Mr. Smith: Somebody attached a layout for building 12 on the site plan for building 6. I just don't want there to be confusion.

Mr. Eisdorfer: Might be confusion.

Mr. Naumchik: Yes, because this one says 12, they both say 12.

Mr. Eisdorfer: That's 12, yes.

Mr. Capozella: One of these was adding a loading dock.

Mr. Smith: Which one are you adding a loading dock to?

Mr. Eisdorfer: Number 6.

Mr. Smith: Six?

Mr. Capozella: And a ramp. He's adding a ramp too to one of these structures.

Mr. Smith: I suppose the Planning Board could ... if the Planning Board wishes to approve this, both of them, it could be on the condition that the site plan be revised to indicate the correct building on each plan.

Mr. Eisdorfer: What happened? It's mixed up?

Mr. Smith: See Isreal, what I'm saying is your application for #6 shows at the bottom the existing layout for building #12 and that layout is completely different

than the map you attached to the application for building 12. I mean this is totally different.

Mr. Naumchik: I don't know, I got two 12.

Mr. Smith: That's right, there's two 12. You've got 6?

Mr. Thorn: I have a layout for 6.

Clerk: There are two for building 6.

Mr. Smith: Here is the problem. There is 6, there's where the confusion is and then the layout for building 12 which you have attached to application, building 12 is completely different than this. So I think the Planning Board can approve this but we just need a revised site plan that indicates the correct numbers.

Mr. Eisdorfer: That's maybe just only one mistake.

Mr. Smith: Oh, I think it is only one mistake.

Mr. Eisdorfer: Yes, that only one.

Mr. Smith: And this can be easily corrected.

Mr. Eisdorfer: The other one is good.

Mr. Capozella: Straightened it out?

Mr. Smith: I think if the Planning Board wishes to approve it, I would say just do it on the condition to get the corrected site plan indicating the correct building numbers on each application.

Mr. Naumchik: Yes, I would just do it that way.

Mr. Capozella: Ok, back to the agenda. So are there any more questions from the Board?

There were no further questions from the Board.

Mr. Capozella closed public hearing.

Mr. Capozella: Can we vote on these together or do we have to do it individually?

Mr. Smith: I'd say do it individually.

On motion of Ms. Hewson and seconded by Mr. Naumchik to approve the application of Abjo Realty Corp. for a loading dock and distribution and warehousing facility located at 17-39 Midland Avenue Ext., Bldg. #6, Middletown, New York. Hours of Operation Monday-Thursday, Saturday and Sunday 9AM to 5PM and Friday 9AM to 2PM. There are going to be approximately 15 employees. It will be redistribution for Amazon or warehousing related business the tenant decides to do. This approval is contingent upon the applicant providing amended site plan correctly labeled for building #6. This approval is contingent on the approval of the Department of Public Works and Fire Department if necessary.

Roll Call Ayes: Paul Thorn, Nicole Hewson, Dan Higbie, Anthony Capozella, John Naumchik.

**Abjo Realty Corp.
17-39 Midland Avenue Extension, Bldg. #12
a distribution and warehousing facility**

On motion of Mr. Naumchik and seconded by Mr. Higbie to approve the application of Abjo Realty Corp. for distribution and warehousing facility located at 17-39 Midland Avenue Ext., Bldg. #12, Middletown, New York. Hours of Operation Monday-Thursday, Saturday and Sunday 9AM to 5PM, Friday 9AM to 2PM. There are going to be approximately 15 employees. This approval is contingent upon the applicant providing amended site plan correctly labeled for building #12. This approval is contingent on the approval of the Department of Public Works and Fire Department if necessary.

Roll Call Ayes: Paul Thorn, Nicole Hewson, Dan Higbie, Anthony Capozella, John Naumchik.

Mr. Eisdorfer: Thank you.

Mr. Capozella: See the DPW.

Mr. Eisdorfer: Thank you very much. Keep up your good work.

**MSL Properties, LLC
126 Sprague Avenue
an auto sales, office and residential rental apartment**

Mr. Lederman: Hi, good evening.

Mr. Capozella: Yes, sir.

Mr. Lederman: Hi, Matt Lederman. How are you? This is my third time here. I revised the last plan, there was some concern. The last plan we proposed was for auto detail shop in addition to the auto sales and a residential. There was some concern that the chemicals used may impact the brook and there was some runoff so we struck that off and we are here to again kind of wrap this up tonight hopefully. I went over the plan with Walt months ago; 2-bedroom rental with an office off to the side; I think everyone has a copy of the layout of the building. There is a kitchen, there is a full bathroom, there is a two-bay garage and there is a sales office. We also added a parking diagram indicating where the cars would be displayed, where the tenant parking would be positioned as well.

Mr. Capozella: I don't believe we ever closed the public hearing; it's still open I would assume if this is your third time here. I remember the second time. I don't remember the first one, but that's ok.

Mr. Lederman: Sure.

Mr. Capozella re convened [public hearing was kept opened] public hearing.

Mr. Thomas: My name is Harold Thomas. I'm at 122 Sprague and 124. He is right next to me and it's always been a business from day one and I'm opposing against the residence. You've got my letter, I wrote the letter, you guys read the letter and what I stated in it?

Mr. Smith: What's the reason for opposing the residence?

Mr. Thomas: Well, it explains in my letter. Everything explains in the letter. And I got another copy if you want to pass it around.

Mr. Lederman: Can someone read the letter so we can hear what the objections were?

Mr. Capozella: We can, we can read it for the record if so desired.

Mr. Smith: It's 3 pages long. Well, Mr. Thomas I've read it. I don't know that I see a specific objection to the residence other than the property is too small to have both. But can you tell us what your concern is?

Mr. Thomas: You mean with the residence?

Mr. Smith: Yes.

Mr. Thomas: It explains what's going on across the street. There's hardly any place to park. There is a guy, he has a business there, his people cannot park on the side where they live, they got to park out on the streets, you can't get out there and it would be same thing over there with the residence, I'm not gonna have nothing but a headache, we got enough problems down there as it is.

Mr. Smith: But if there's only one tenant there's only one car to park. Am I missing something?

Mr. Thomas: Where, there?

Mr. Smith: Yes.

Mr. Thomas: It all depends how many you want to get in there.

Mr. Smith: Well, he is asking for a single family residence.

Mr. Thomas: That doesn't mean... how many boarders are going to go after that. That's what we have across the street.

Mr. Smith: Well no. If the Planning Board grants a single family residence, that's it. The zone doesn't allow anything more than single families. This is now a C-2 zone. I take that back. It does allow multiples and two-families but you would have to come back to the Planning Board.

Mr. Thomas: Right.

Mr. Smith: The difficulty is, and you don't mention this in your letter but Mr. Lederman applied to the Council, this was a C-1. Am I right about that?

Mr. Lederman: Yes.

Mr. Smith: And in order to get the original use Mr. Lederman applied for the Council, the Council agreed to re-zone it, the neighbors were notified; I do not recall if there was any opposition to that or not but it was sold... maybe that's not the right word; it was advertised to the neighbors as it was going to be a glass facility.

Mr. Lederman: There was a current tenant who required a C-2 zoning change.

Mr. Smith: And at that point in time you could not have put this type of commercial building, an auto sales, together with a residence. So in effect the Council rezoned it for a different reason but you are sort of backdooring in a use that would not have been permitted had the Council not rezoned it, that the Council wasn't even aware of. I mean, I think it's an issue. I'm not saying I know what the resolution is but...

Mr. Lederman: Well, couldn't have it always been a residential even regardless if it was a C-1 or a C-2; it could have been... it's a mixed use zone and I believe it could have been residential even with a C-1 zoning.

Mr. Smith: It could have been residential with the Planning Board approval.

Mr. Lederman: Right. And there are homes all around on both sides.

Mr. Smith: But the combination would not have been allowed. That's the issue. So in a sense I can understand the neighbors concern about that.

Mr. Lederman: I think Mr. Thomas would object if it was single family by itself. He doesn't want a neighbor next to him regardless of the business. If the business wasn't there and a single family residential home was, he would have a problem with that.

Mr. Thomas: No, I wouldn't have. It's always been a business. It was Patterson Glass, it was always a business, I would never been against it.

Mr. Smith: But Mr. Thomas, the reality is whether it was a C-1 or C-2 he could put now, with the Planning Board approval, he could put in a single family, a two-family or multiple.

Mr. Thomas: But at the time if I knew when he changed from C-1 to C-2 if I have known what it meant I would have opposed it back then.

Mr. Smith: I understand what you are saying but you are not listening to me. If at the time it was changed... he didn't have to change it to a C-2 to get a permission to put in a single or a two or a three-family in there. That was already allowed under the old zoning. He could have done it back then. So the only thing that the new zoning impacts, the only thing that's questionable about the new zoning is that it allows both, the auto sales and residence in the same building. That was not allowed before.

Mr. Capozella: But it is now.

Mr. Smith: But it is now. And we still are wrestling with exactly what is the adverse impact on a neighborhood with that.

Mr. Lederman: We are not parking on the street so there will be no on-street parking, the tenant would be assigned the spot in front of the driveway.

Mr. Smith: Is that shown on any...

Mr. Lederman: It's on the map. It's in front of the garage door bay, it says tenant parking. And we were actually in talks with some Touro College kids, they ride bicycles to school so there is no impact you know?

Mr. Smith: Well, but this is an approval that will run for the future so you know...

Mr. Lederman: Right, but I'm happy for you guys to say, look it's a single family with no more than 4 occupants. If Mr. Thomas is concerned about the number of people I'm ok with that.

Mr. Smith: We can't do that. I mean we can't interfere with somebody's wish to have a family but it certainly can't be a two-family or three-family, it's got to be a single family.

Mr. Lederman: Sure.

Mr. Capozella: We can call it that - a single family with 2 bedrooms.

Mr. Smith: Well, is that what it's configured for? Two bedrooms?

Mr. Lederman: That's what it's proposed as, yes.

Mr. Smith: Single family with two bedrooms.

Mr. Lederman: Correct.

Mr. Capozella: It has a computer room in there but we can...

Mr. Lederman: We are not using a computer room to live in, there are no windows in that room so that would just be a computer room or a study.

Ms. Hewson: Mr. Lederman, why were you here for this at the beginning? I found the April application where you wrote that it was a mixed use.

Mr. Lederman: It was when American Mobile Glass put their original application in, so it was probably 6 months prior to that, the last meeting.

Ms. Hewson: I was looking for my notes; I don't think I have them here.

Mr. Thorn: How would the Common Council approve the zoning change without this potential eventual situation being something they would consider? I mean assuming they approved it to change the zoning and they are approving the idea that this could potentially become mixed use of this sort, correct?

Mr. Smith: That's true, except that was not the way it was presented to the Council. It was presented to the Council that a sole purpose of the rezoning was to allow someone that he already had there a business, to have a zoning designation that NY State would approve for that type of business. That was the way it was presented to the Council.

Mr. Thorn: Ok. So there was a type of business that was not allowed, they wanted to put that kind of business.

Mr. Smith: Correct.

Mr. Thorn: Ok.

Mr. Naumchik: I think the decision had nothing to do with businesses.

Mr. Smith: That's correct.

Mr. Naumchik: Type of business.

Mr. Smith: That's correct.

Mr. Naumchik: I think this should stay a business.

Mr. Capozella: Unfortunately we have to at least abide by the Code. It was changed; we have to abide by the possibilities of the Code.

Mr. Smith: Mr. Lederman, what's the problem with having it all business?

Mr. Lederman: We don't require that much space, we just need one room office and we are wasting 80% of the building.

Ms. Hewson: I've been inside that building before, it's not that big.

Mr. Lederman: Four rooms and the common area, kitchen, bathroom and a two-bay garage.

Ms. Hewson: I remember when I... I had some auto glass done there couple of years ago and it was very strange to go in there and see a couch and then have the business there, I recall that standing out in my mind.

Mr. Lederman: I think they set up a pseudo waiting room but that wasn't my design.

Ms. Hewson: It was going around the back, I remember, but ok. And I also recall, I don't have my notes here this evening but I recall from the last time, there were some concerns by people in the public hearing about the STOP sign, with people being able to see the traffic that's oncoming when they are making a turn, left or right.

Mr. Lederman: I recall that and I think someone mentioned it to DPW. I think the fence that runs along Genung is actually more of a blind spot than any cars that would be in front of my building. So if you take Sprague Avenue down to the T at Genung and you get to that Stop sign, you can't see left. You can see right clearly, you can't see left because there is a cement block with the fence running straight down so that would be your blind spot. I know whenever I turn there I have to almost get into the middle of the road.

Ms. Hewson: I would agree with you on that but I would also say that if there was a big truck parked there it would be very hard to see going right as well so it probably would be less of a potential hazard but still possible hazard.

Mr. Lederman: Ok.

Mr. Higbie: So the person that is currently renting the business part of it, is that rented at the moment or is it empty?

Mr. Lederman: The building's vacant so the reason there is a delay of 6 months every time I come back, it's been on the market and off the market, we had a few people interested, they call Walt, they have some conversations and then we are held off and then the talks die down.

Mr. Higbie: Ok. So would you ultimately be looking for the same person to live and to rent?

Mr. Lederman: Possibly.

Mr. Higbie: Possibly? Ok.

Mr. Capozella: While we are still under the public hearing, we have 3 documents that I have to report that have been presented to the Planning Board. One is from Joseph DeStefano, Mayor of the City of Middletown. This was presented on May 27, 2016 on 126 Sprague Avenue. It was addressed to Mr. Risdal who was the Chairman at the time. "I am writing in opposition to the request to place an apartment at 126 Sprague Ave. as part of a commercial enterprise. The applicant, Mr. Lederman first applied for a zone change to address a State requirement for licensing the Glass business. Somehow this has now morphed into a combination office / apartment. In speaking with some of the neighbors, specifically Mr. Thomas who owns the property adjacent to 126 Sprague Avenue he has expressed his opposition to this approval and I would like to join him and his neighbors voicing my concerns. Respectfully, Joseph M. DeStefano, Mayor."

I also have another letter from Michael Gklicksman. "Since my wife will be having surgery on July 5 I will be unable to attend the meeting; accordingly, I am submitting my input in written form. The warehouse-type building I own at 118 Sprague Avenue Rear has a very long-standing deeded easement for access, without which it would not be usable. Its long driveway exits via a curb cut on Genung Street, right next to the side of the 126 Sprague, property currently under consideration. I have been told that Mr. Lederer's stated intention if he gains approval for his business, is to extend the existing chain-link fence which borders the rear of Harold Thomas' property, all the way out to the curb of Genung Street. If this is in fact his plan, and he installs such a fence, the result would be a significant incursion onto the deeded right of way. The current driveway there measures 11 feet 8 inches wide. If the new fence were installed as described the driveway would then be reduced to about 7 feet 9 inches wide where it meets Genung and for quite a distance leading up to that point. If the information I have been given about the fence is in fact accurate, this change would constitute a reduction in the width of my deeded easement by approximately 34%, and I will strenuously object to it because of the great difficulty with egress it would create and because clearly it would constitute an illegal violation of the existing deed. With respect to the use of the property for auto sales, I find this use appropriate and I have no objection. As for the application for a residential apartment in the building, while I have no particular objection, I find this part of the application puzzling, since the building in question is a small commercial-type structure which on the face of it would appear to be unsuitable as living space regardless of any possible changes to the interior configuration, which I assume is the reason why prior applications for residential uses for this building presented to this Board under the present and previous ownership, as I've been told, have been rejected. I

hope you will give consideration to my comments. Thank you. Michael Glicksman.”

I also have a letter from Mr. Thomas. It's 3 pages, Mr. Thomas has already stated his objections so it is a 3-page letter that will be put into the record.

Mr. Smith: I recall discussions about the easement but I do not recall how it was left. Do you intend to build the fence that he is talking about?

Mr. Lederman: I'm bringing a fence out. It won't go to the curb. It's probably gonna meet the building so half-way between where the existing fence is now and the street. I understand and I'm sensitive to the fact that they need access to the building and I wasn't looking to block that at all.

Ms. Hewson: Usually they put that on the plan though. I don't see it.

Mr. Lederman: I don't think...

Ms. Hewson: I'm sorry I'm looking at the wrong one, I apologize.

Mr. Lederman: I don't think you need a fence permit. I think you just have to follow the property lines and they are already clearly marked.

Ms. Hewson: No, but usually when there is some kind of a change, it usually gets put on the site plan, is all I meant.

Mr. Lederman: I was told that I didn't need a fence in the application, a fence marking but there is a...

Mr. Smith: Again, I don't remember all the discussion about the easement but certainly if the easement could be protected it obviously should be.

Mr. Lederman: I have no problem with that.

Mr. Capozella: My main comment is, you supplied somewhat of a parking plan here. I'm not quite sure if it's to scale. I mean you show 1, 2, 3, 4, 5 or 6 parking spots off of Sprague Avenue. I'm not sure if this will fit. I have driven by this a couple of times, I'm not sure if that many cars in a standard 9 by 18 spot that is required for parking in the City of Middletown will fit in this area. You would have to drive over the sidewalk to access those parking spots which I believe you cannot do without the proper curb cut.

Mr. Lederman: There is access from the driveway in front of the building. We wouldn't go over the curb.

Mr. Capozella: Well then you drive in front of your property and if anybody parks where you have number 10 written you won't have access. I just think this plan is very muddled and very congested. You say you have tenant parking; it's in front of the double door or the two working doors of the bays. I'm just not comfortable with this parking plan. And the parking plan also shows additional 9 spots where the easement could possibly be.

Mr. Lederman: The easement is to the left hand-side of that parking area.

Mr. Capozella: Exactly. Well, again, not clear.

Mr. Smith: Yes, we need something that shows where the easement is.

Mr. Capozella: Right. The easement and if you plan on parking cars on Sprague Avenue, we need a detailed and a scaled drawing and a curb cut, in my opinion, a curb cut has to be put on Sprague Avenue in order to access those. You just can't simply access those from the front of the building. I don't think it's plausible.

Mr. Smith: And I can tell you from other instances, Walter, you are probably aware of this, the Commissioner requires certain types of materials for curb cuts now.

Mr. Welch: Correct.

Mr. Smith: That would have to be a part of the resolution.

Mr. Capozella: And blacktop. I mean there is a little more going on here than meets the eye and this small diagram I'm not sure does the plan justice. I think before we approve something like that we want to be certain.

Mr. Lederman: Ok.

Mr. Capozella: Any other comments from the Board? *(No one came forward)*
We are going to leave the public hearing open still and I need a motion for adjournment for future consideration.

On motion of Mr. Naumchik and seconded by Ms. Hewson to adjourn for future consideration the application of MSL Properties for an auto sales, office and residential rental apartment located at 26 Sprague Avenue.

Roll Call Ayes: Paul Thorn, Nicole Hewson, Dan Higbie, Anthony Capozella, John Naumchik.

Mr. Capozella: I guess you need some help on developing that site plan.

Mr. Smith: Walter, can you sit down with him?

Mr. Welch: Sure.

Mr. Capozella: All right?

Mr. Lederman: All right. Thank you.

Love Legacy Chapel International
139-147 Wickham Avenue
charitable organization office including training and development rooms,
counseling, food and clothing distribution

Mr. Capozella: Is anyone here representing Love Legacy Chapel International?

No one came forward

Mr. Capozella: I can adjourn it or I can just...

Mr. Smith: I wouldn't mark it withdrawn but mark it off the calendar unless we are contacted by the applicant. That's my suggestion. No sense adjourning it. Just mark it off the calendar till we are contacted by the applicant.

Mr. Capozella: So they are no show?

Mr. Smith: Martina, you were not contacted by them, were you?

Clerk: Well, we communicated regarding the site plan as...

Mr. Smith: I mean in the last few days.

Clerk: Yes.

Mr. Smith: And they said they were gonna come or not come?

Clerk: Yes, they were planning on coming.

Mr. Smith: All right.

Mr. Capozella: Ok. We need a motion to remove it from the calendar, from the agenda this evening.

On motion of Mr. Higbie and seconded by Ms. Hewson to remove from the calendar application of Love Legacy Chapel International for charitable organization office including training and development rooms, counseling, food and clothing distribution located at 139-147 Wickham Avenue.

Roll Call Ayes: Paul Thorn, Nicole Hewson, Dan Higbie, Anthony Capozella, John Naumchik.

Adjourned 8:00PM

Respectfully Submitted,

Martina Ju, Clerk