

**CITY OF MIDDLETOWN
PLANNING BOARD
MINUTES**

December 06, 2017

A meeting of the Planning Board was held in the Common Council Chambers, City Hall, 16 James Street, Middletown, New York on December 6, 2017 at 7:00 P.M., Mr. Anthony Capozella presiding.

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

Members Absent: Dan Higbie, John Naumchik.

Other Attendees: Richard Guertin, Corporation Counsel, Walter Welch, Building Inspector and Adam McCarey, Fire Inspector.

The Pledge of Allegiance was said.

On motion of Ms. Hewson and seconded by Mr. Sisco to appoint Mr. Capozella the temporary chairman for the December 6, 2017 Planning Board meeting.

Roll Call Ayes: Anthony Capozella, Mr. Sisco, Paul Thorn, Nicole Hewson.

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.

Mr. Capozella: We do have a quorum, just enough, four of us, so you'll need a unanimous vote, so just keep that in mind also.

On motion of Ms. Nicole Hewson and seconded by Mr. Paul Thorn to approve the minutes of November 1, 2017 as submitted.

Roll Call Ayes: Steve Sisco, Paul Thorn, Nicole Hewson, Anthony Capozella.

**Abjo Realty Corp.
17-39 Midland Avenue Extension, Bldg. #11
distribution and warehousing facility**

Mr. Capozella: Good evening, sir. Did you give your mailings to the clerk?

Mr. Eisdorfer: Yes, she has them, yes.

Mr. Capozella: Thank you. Please tell us what you want to do.

Mr. Guertin: You have to identify yourself for the record too.

Mr. Eisdorfer: It's one of the buildings over there at the...

Mr. Guertin: What's your name and your relationship with the applicant.

Mr. Capozella: Who are you?

Mr. Guertin: Who are you and...

Mr. Eisdorfer: Isreal Eisdorfer, I'm the owner of the property, Abjo Realty, 17-39 Midland Avenue Extension, Middletown, New York. This is one of the buildings which... it's the plan to have a tenant or it's going to be distribution or Amazon or warehousing, it's one of the kind which the other building has. And I would like to get approvals for it.

Mr. Capozella: Ok, it's similar to your other application.

Mr. Eisdorfer: Yes.

Mr. Capozella: Ok. And just for clarity, for the record, Mr. Eisdorfer has submitted an overall view of his property with the buildings numbered on it. We are going to add that to each one of your applications so that our code enforcement people know what building they are going for even though you have them marked, we know, thank you very much but we just want to put this with the application.

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

Mr. Capozella: All right, we'll leave the public hearing open momentarily and we'll give the Board members a chance to comment.

Ms. Hewson: All of the details that you gave us at the last meeting are still the same, number of employees, hours of operation and so forth?

Mr. Eisdorfer: This building is a smaller one, it's a smaller building, the other one was much bigger; the other one was like 40,000 square feet, this one is like 3,000.

Mr. Capozella: The hours of operation, if you would please again state for the

record so we put it in resolution.

Mr. Eisdorfer: Should be between 8 and 6 every day, Friday till about 12 and usually Sundays they are closed but sometimes they work on Sundays as well.

Mr. Capozella: So you want to put Sunday from 8 to 6 also just in case?

Mr. Eisdorfer: No, Sunday is, I should say between 10 and 4.

Mr. Capozella: Ten and four?

Mr. Eisdorfer: Yes.

Mr. Capozella: Closed on Saturdays?

Mr. Eisdorfer: Yes, closed Saturdays.

Mr. Capozella: Ok, any other questions from the Board?

Ms. Hewson: How many employees will you have for this particular...

Mr. Eisdorfer: I don't think they are going to have more than three.

Ms. Hewson: Ok.

Mr. Capozella: Ok, anyone else? Anyone else form the public would like to step forward?

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

On motion of Mr. Thorn and seconded by Mr. Sisco to approve the application of Abjo Realty Corp. for light manufacturing, packaging and warehousing facility located at 17-39 Midland Avenue Ext., Bldg. #11, Middletown, New York. Hours of Operation Monday-Thursday 8AM to 6PM, Friday 8AM to 12PM and Sunday 10AM to 4PM. 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, Steve Sisco, Anthony Capozella.

Mr. Capozella: Thank you very much.

Mr. Eisdorfer: Thank you very much, I appreciate it.

Rave Auto Body
17-39 Midland Avenue Extension, Bldg. #2
auto repair shop

(Certification of mailing handed in)

Mr. Varney: Good evening.

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

Mr. Varney: Bob Varney from Rave Auto Body, building #2. I'm applying for a variance for something I've done in that same building for the last 35 years – auto repair. I don't really know...

Mr. Guertin: Technically, you are not applying for a variance. You are applying for the approval...

Mr. Varney: I was told I was applying... ok, then whatever I'm doing, approval, whatever I am, basically the bottom line is I'm really not sure why I'm here, I haven't really gotten any definitive answers on why I am and what I'm supposed to, why I'm doing this after this many years but if you have them, ask them, I can kind of figure out where I'm going here.

Mr. Guertin: How many years have you been operating there?

Mr. Varney: Thirty five.

Mr. Guertin: Ok.

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

Mr. Capozella: Board members, any questions? *(There were no questions from the Board members)*. I see the hours of operation are already in here – 8AM to 5PM, Monday through Saturday, basically.

Mr. Varney: Yes, preferably half a day on Saturday but sometimes...

Mr. Capozella: We'd like to leave it the full day, this way if you chose to come in on Saturday, there's no issue.

Mr. Varney: Yes, that's how it usually works out anyway.

Mr. Capozella: Yes. And the clarification, even though the application is submitted as auto body, it's actually more of an auto repair facility.

Mr. Varney: Yes, over the years I often wanted to change the name but didn't for the simple reason I didn't know what that would involve going to Motor Vehicles; when I was renewing as opposed to just dropping the check and there might be forms or whatever but I have actually for quite a few years now, every two years when I renew it saying I want to drop the body part because...

Mr. Capozella: And you are well aware of the auto body rules and regulations if you do auto body work.

Mr. Varney: I am, I am, I've been enlightened on those too.

Mr. Capozella: For 35 years now. Ok, that's fine. And also for clarity, we are also going to stick the overall map of the property with the building numbers on it. I think there is maybe a mistake, there's two buildings here with number 2 on them but your application clearly defines where you are in the pictures and then on the map so it's not your issue Mr. Varney, it was on the map that Mr. Eisdorfer gave us.

Mr. McCarey: With the green that's actually number 1.

Mr. Capozella: Yes, I thought there was something here, right. We can correct that ourselves.

Mr. Varney: Yes, because the one that I had given to you we actually put... we had written it on there so...

Mr. Capozella: Not an issue.

Mr. Varney: Ok.

Mr. Capozella: We are also going to be putting that with your application so everyone knows the overall scheme of the entire parcel.

Mr. Capozella closed public hearing.

On motion of Ms. Hewson and seconded by Mr. Thorn that the Middletown Planning Board hereby approves the application of Rave Auto Body for a site plan approval in order to have an auto repair shop located at 17-39 Midland Avenue Ext., Bldg. #2, Middletown, New York. Hours of Operation are Monday-Saturday

8AM to 5PM. The Planning Board approves 9 cars. This approval is contingent on the approval of the Department of Public Works and Fire Department if necessary.

Roll Call Ayes: Steve Sisco, Paul Thorn, Anthony Capozella, Nicole Hewson.

Mr. Capozella: Thank you very much.

Mr. Varney: Thank you.

**Edmundo and Maria Ramirez
17-39 Midland Avenue Extension, Bldg. #3
an auto repair, tire repair and car sale business**

(Certification of mailing handed in)

Mrs. Ramirez: Good evening. My name is Maria Ramirez, that's my husband, Edmundo Ramirez; partnership; we have a small business where we do auto repair, tires and we want to sell cars. We've been there for six years, it was owned by my brother before that and he actually... it was approved by the Planning Board back in 2008, which I included that in my application. And if you have any questions...

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

Mr. Capozella: I open any questions to the Board.

Mr. Thorn: Do we have a parking plan for the spaces if it's going to be car sales?

Mr. Capozella: I believe we do, it's in the application.

Mr. Thorn: Ok, I didn't get one in my set.

Mr. Capozella: If I read it correctly, the cars that are going to be for sale and or storage and or for parts and the trailers are going to be behind the building 11 and 12. Is that correct?

Mrs. Ramirez: That is correct.

Mr. Capozella: That's where the landlord requires them to be.

Mr. Thorn: But the shop is in the building #3?

Mr. Capozella: Correct.

Mr. Thorn: I mean I'm fine if there's enough space for the parking. I just didn't get any kind of drawing or...

Mr. Welch: There's ample.

Mr. Thorn: Ok.

Mr. Capozella: And they also have a box truck and trailers listed on the site plan in the location that the landlord requires. I had a question about the... the way it was worded as far as the vehicles that are... you have 10 to 25 old vehicles on the property for parts.

Mrs. Ramirez: Well, we also buy junk cars so those cars we remove parts and then we junk them.

Mr. Capozella: Ok, I don't know what the code is there, we would have to research that a little bit but I don't believe you can have junk cars just hanging around for parts.

Mrs. Ramirez: Ok.

Mr. Cpozella: You said you are going to sell cars.

Mrs. Ramirez: All right, we also sometimes buy the cars to fix them up, so not everything is junk.

Mr. Capozella: Ok, then the junk would have to be removed. Most of the time, I believe, the restriction is the car has to be inspected or inspectable, if that's the word and for resale.

Mrs. Ramirez: Ok.

Mr. Capozella: No fluids can be leaking, no parts, there's a standard that has to be met.

Mr. Guertin: And you can't use it as a junk yard. The vehicles that are there have to be used for a particular purpose; they cannot remain there indefinitely; it's got to be temporary situation.

Mrs. Ramirez: Ok, if that's an issue then we won't do it, we just do cars for sale.

Mr. Guertin: It would be cleaner, in more ways than one, if you removed any reference to having junk cars on the property.

Mr. Capozella: We are going to add that to the resolution that that would be prohibited.

Mrs. Ramirez: I have no problem with that, your Honor.

Mr. Capozella: Yes, just so you know, ok? We do that with everyone, not just you, we got to be fair to all.

Mrs. Ramirez: Ok, I understand.

Mr. Capozella: All mechanics they try to have cars on the site.

Mr. Thorn: Understanding that we have ample parking, is there benefit in having a certain limit to the number of vehicles? I mean my concern is down the road if it's purchased by a different user and there's no limit, that whole property could ... who knows what can happen, how many cars they can bring to the property.

Mr. Capozella: I believe that in the resolution I will... they've stated 25 cars. So I'm going to add that to the resolution. They have 4 box trailers, one box truck and two car trailers. And I'm going to add that to the resolution so that they will just follow and the inspector will follow that and anything more than that they'll have to remove. Any other questions from the Board?

Mr. Sisco: Are these resale cars that you went out and purchased or customers that came in and sold them to you?

Mrs. Ramirez: Most cars we buy.

Mr. Sisco: You buy? Ok. So can you differentiate between the ones that are junk and you gonna get parts and ones that are for sale? Is there a number you can give us?

Mr. Welch: There be no junk.

Mr. Capozella: Right, there be no junk.

Mr. Sisco: Ok, you are not gonna take any parts off.

Mrs. Ramirez: No, that's what they asked us to do so it's gonna be no junk.

Everything is going to the junk yard.

Mr. Sisco: Ok.

Mr. Capozella: Ok, we'll make sure we put that in the resolution, we get it right before we vote on it.

Mr. Capozella closed public hearing.

Ms. Hewson: Same hours of operation?

Mrs. Ramirez: Monday through Saturday 9:30 to 6. Sundays in the winter 9:30 to 6, Sundays in the summer 9.30 to 6 as well.

Mr. Capozella: So we just put in the resolution open daily 9:30AM to 6PM.

On motion of Ms. Hewson and seconded by Mr. Thorn that the Middletown Planning Board hereby approves the application of Edmundo and Maria Ramirez for a special use permit and site plan approval in order to have an auto repair, tire repair and car sale business located at 17-39 Midland Avenue Ext., Bldg. #3, Middletown, New York. There will be a limit of 25 cars, 4 box trailers, one box truck and 2 car trailers. All cars must be sellable. There will be no "junk cars" for parts left on the property.

Mr. Capozella: A question came up if 25 cars are for sale and repair because I assume that if you have a car under repair you don't have it inside the building, you are storing it behind the building, right?

Mrs. Ramirez: Correct.

Mr. Capozella: So then that'll include both, cars for sale and cars being repaired, 25 total. And they must be operational, inspectable, everything, no junk, all right? And the hours of operation will be 9:30AM to 6PM daily. This approval is contingent on the approval of the Department of Public Works and Fire Department if necessary.

Roll Call Ayes: Steve Sisco, Paul Thorn, Anthony Capozella, Nicole Hewson.

Mr. Capozella: Thank you very much.

Mrs. Ramirez: Thank you.

Yan & Guo, LLC.
130 Wickham Avenue
retail store

(Certification of mailing handed in)

Mr. Capozella: Yes, sir.

Mr. Fuller: Good evening to the Board. My name is John Fuller, I'm the professional engineer that's representing the applicant before you for special use and site plan. Subject property is 130 Wickham Avenue, here in the City of Middletown. Currently on the property is a two-story structure that occupies almost 90% of the footprint of the property which is a little over 7,000 square feet. The proposal before the Board is to allow for a commercial store front, convenience retail store on the first floor of that building and currently and presently there is a second floor apartment over top of that area as well. About 75% of the building is vacant and will remain vacant as part of the application. I submitted with the application a floor plan which indicates the scope of the convenience store on the first floor and the second floor apartment is directly over that area.

Mr. McCarey: Is that the old Bob's?

Mr. Fuller: I don't know that answer, I can't...

Mr. Welch: It used to be Happy Tails grooming.

Mr. McCarey: It's the one between Maria's and the Tax Zone and then you have the building, right?

Mr. Welch: And the moving company in there also.

Mr. Fuller: Yes. The remaining vacant parts of the store front was like a movie company or a movie... I'm not sure exactly what...

Mr. Welch: At one time it was illegal so...

Mr. McCarey: That's when they had the club.

Mr. Fuller: Yes, it was like a club. It's been vacant for a while and I've included a floor plan. Again, predominantly 75 % of the back half of the structure is essentially like a barn type construction; that at present will remain vacant and

separated from the proposed use, which is again a commercial retail store on the first floor and the apartment is proposed to remain on the second floor.

Mr. Welch: With the vacant area, is there a fire separation?

Mr. Fuller: Yes, we are proposing in the construction documents to build out the space to provide a fire barrier, a fire wall between the vacant area and the store front.

Mr. Welch: Thank you.

Mr. McCarey: Is that two separate buildings were going from that main floor where the party club used to be, there's a back area with the overhead door and there's another portion behind that. Are those two separate buildings or is that all one?

Mr. Fuller: It's essentially one building, it's got one roofline but I can tell you that based on the construction type they were built separately at one time. But they are contiguous, they are attached and it's essentially one footprint.

Mr. McCarey: How many square feet for the retail store there?

Mr. Fuller: Good question. I have currently designated just under a thousand square feet, about 968 square feet. And the footprint of the apartment upstairs is directly over that 968 square feet.

Ms. Hewson: Is the apartment occupied?

Mr. Fuller: It has been, yes.

Ms. Hewson: But not presently?

Mr. Fuller: I think the last tenant moved out in the last 2 months and the owner intends to make some renovations before the new tenant would move in.

Mr. Mccarey: How many bedrooms?

Mr. Fuller: It's essentially one bedroom.

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

Mr. Capozella: Moving on to the Board members. Any Board members have any

questions?

Mr. Thorn: So we have to waive parking?

Mr. Capozella: Yes, we have to waive parking, there's not enough parking here, at the back of the property he could do something if he wanted to. My only concern is, and maybe it's not a concern, but once it's approved by the Planning Board, I assume the DPW and the Fire Department will take over and ... because I see the words "storage" in here and that kind of sets off all the bells and whistles that you know whatever is going to go on here is done appropriately.

Mr. Welch: You know he can't do anything without the DPW approvals.

Mr. Capozella: I know.

Mr. Welch: Between Adam and I we'll...

Ms. Hewson: What will you be selling at the convenience store? Just basic snacks and drinks?

Mr. Fuller: It will be a general convenience. You know I will add that they intend... there will be no alcohol; they are not looking to get a license to sell alcohol, so that we have no problem putting that on the record. They will put a little emphasis on smokes, but it is intended to be general retail.

Mr. McCarey: Are you going to do any cooking like griddle or breakfast sandwiches?

Mr. Fuller: No. They are not proposing prepared food or any type of like deli type food, no.

Mr. Capozella: Ok, we just make sure we put that in the resolution so that you are well aware of that if you do make any amendments you will come back and...

Mr. Fuller: Understood, yes.

Ms. Hewson: Do you know the hours of operation?

Mr. Fuller: Yes, so and I didn't put it on the map but again we'll put it into the record, they are proposing Monday through Saturday 8AM to 9PM and Sunday 9AM to 6PM. They are expecting two employees to mend the store.

Mr. Capozella closed public hearing.

On motion of Mr. Thorn and seconded by Mr. Sisco that the Middletown Planning Board hereby approves the application of Yan & Guo, LLC. for a special use permit and site plan approval in order to have a retail store located at 130 Wickham Avenue, Middletown, New York. There will be general convenience items only, no alcohol and no cooking on site. The hours of operation will be Monday through Saturday 8:00AM to 9PM, Sunday 9AM to 6PM. Planning Board waives parking requirements. This approval is contingent on the approval of the Department of Public Works and Fire Department if necessary.

Mr. Capozella: Do we need to do anything with the apartment? The apartment is part of the approval and it is a one bedroom apartment.

Mr. Guertin: You might want to add it to the resolution that to the extent any use will be at the back portion they would come back to the Planning Board for the appropriate approval.

Mr. Capozella: Ok, noted in your record?

Mr. Fuller: That's acceptable, yes.

Mr. Capozella: You will come back for any approvals for the remaining portion of the building. Good idea.

Roll Call Ayes: Steve Sisco, Paul Thorn, Anthony Capozella, Nicole Hewson.

Mr. Capozella: Meet with the DPW.

Mr. Fuller: Very good, thank you.

Joseph J. Mesnica, Jr.
39 West Main Street
tapas style restaurant and full service bar

(Certification of mailing handed in)

Mr. Zemonsky: Good evening. My name is Stosh Zemonsky with Anderson Design Group. I'm here representing Joseph Mesnica, who is in the audience as well, he also goes by Jay. He is looking to open a tapas restaurant at 39 West Main, it's the old Havana cigar bar.

Mr. Guertin: It is.

Mr. Zemonsky: What's that?

Mr. Guertin: It is.

Mr. Zemonsky: It is, yes. He is looking for an approval between a bar and the food seating and the table seating has about 75 customers he can fit into the restaurant. New bathrooms will be constructed at the back, a new tapas kitchen as well. The hours of operation are 11AM to 1AM seven days a week. I don't know if there are any questions.

Mr. Guertin: Has any application been made yet to the Liquor Authority yet?

Mr. Zemonsky: No.

Mr. Guertin: And I know that the Liquor Authority on their application now do talk about hours of operation so any resolution here would include what you've already proposed and that's great.

Mr. Zemonsky: Ok.

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

Mr. Capozella: And Board members. Any Board members have any questions on this application? *(There were no questions from the Board members)*. Just do me a one quick favor, give me just a brief description of a tapas restaurant.

Mr. Zemonsky: It's small plates. Appetizers is kind of an understatement, I don't know if you have a better word but it's small plates, you know a variety of food when you go to eat. Tapas and a wine bar is I think the best description.

Mr. Capozella: Any other questions?

Mr. Thorn: There is a mention here about a keyboard player, light music, I mean that's fine but is there anything that we have special rules or anything that we have to... I know we've had discussions on limitation of sound or things like that on other restaurant applications and bars.

Mr. Capozella: I think because where it's located...

Mr. Thorn: I mean yes, exactly, the location is not really...

Mr. Capozella: You will have to adhere to all sound requirements of the City regardless so...

Mr. Zemonsky: Yes, the intention is just to I think have some background music.

Mr. Capozella: And just for clarification, you stated 75 people occupancy?

Mr. Zemonsky: Yes, that's maximum seating right now. The building code would allow for I think it was 106 based on the square footage, 106 occupants.

Mr. Capozella: So obviously we would follow whatever the code is.

Mr. McCarey: We will recalculate that once...

Mr. Welch: That would be determined by Adam McCarey, the Fire Inspector.

Mr. Capozella: Pardon me, I'm sorry.

Mr. Welch: Capacity will be determined by Adam McCarey.

Mr. Capozella: Ok. I just wanted to double check. I counted like 60 seats.

Mr. McCarey: It all depends on what they have set up, that will be calculated.

Mr. Capozella: That will be under the Fire Department approval, no problem.

Mr. Guertin: Just one question. I don't believe you do, but do you have any plans for any outdoor café; I don't know that the building allows it.

Mr. Zemonsky: No it doesn't, the property lines are right up to the building so...

Mr. Guertin: That's what I thought, ok.

Mr. Zemonsky: I mean unless... I don't think he has any plans for outdoor.

Mr. Guertin: No, I think you are right up to the property lines.

Mr. Capozella: And does he have to have any special approval for signage through the Architectural Board or anything?

Mr. Welch: That will go through Maria Bruni.

Mr. Guertin: That will go to Architectural Review Board, certainly.

Mr. Zemonsky: It's the separate application.

Mr. Guertin: You will put your application to go through the Architectural Review Board and Maria Bruni is sitting in the back, she is the one who coordinates that.

Mr. Zemonsky: Great.

Mr. Capozella closed public hearing.

Ms. Hewson: We have to waive the parking. Sorry for interrupting.

Mr. Capozella: Yes.

Mr. Welch: You have the public parking right behind him.

Mr. Guertin: Technically we waive it.

Mr. Capozella: I think we waive it regardless, just in case.

Mr. Guertin: Absolutely.

On motion of Mr. Thorn and seconded by Ms. Hewson that the Middletown Planning Board hereby approves the application of Joseph J. Mesnica, Jr. for a tapas style restaurant and full service bar located at 39 West Main Street, Middletown, New York. Occupancy is to be determined by the Middletown Fire Department. Hours of operation are 11:00AM to 1:00AM daily. Planning Board waives parking requirement. This approval is contingent on the approval of the Architectural Review Board, Department of Public Works, and Fire Inspector.

Roll Call Ayes: Steve Sisco, Paul Thorn, Anthony Capozella, Nicole Hewson.

Mr. Capozella: Please meet with Mr. Welch.

Mr. Zemonsky: Great. Thank you very much.

Mr. Guertin: And let me just suggest, you are probably aware of it, I believe your client is, but we do have a downtown façade improvement program that's been funded through the State DRI. Applications can be obtained from the Community Development Office, we are right in the middle of that process of getting applications in so I just wanted to put that on the record.

Mr. Zemonsky: Great. Thank you, I appreciate that.

Adjourned 7:45PM

Respectfully Submitted,

Martina Fu, Clerk