

**MIDDLETOWN BOARD OF APPEALS**  
**Middletown, Maryland 21769**

**Board of Appeals Minutes**

**May 8, 2013**

The Middletown Board of Appeals met on Wednesday, May 8, 2013 at 7:00 p.m. at the Middletown Municipal Center, 31 W. Main Street, Middletown, MD 21769. Present were Chairman Fred Rudy, Kenneth Kyler, Tommy Routzahn and staff planner Cindy Unangst.

**Minutes** – Chairman Rudy asked if there were any corrections to the March 27, 2013 minutes. Mr. Routzahn motioned to accept the minutes as submitted, seconded by Mr. Kyler and passed unanimously.

**Case MT-B-13-4 (Bill & Audrey Wells, 29 Wagon Shed Court)** – asking for a variance of 4’ from the required 18’ side yard setback for a pool.

Cindy read her staff report and stated that this hearing was properly advertised and posted.

Commission member Kyler asked if there were any rules as to how many feet the pool can be to the stairs. Commission member Kyler stated that if there were no limits then the pool could be moved over to accommodate the required 18’ setback as there is enough room to do so. Doug Parkinson, pool contractor, stated that typically the steps are no closer than 6’ from any stairs. Mr. Wells stated that the reason the stairs went where they did was the Glenbrook HOA has requirements where the steps cannot protrude beyond the side plane of the house.

After some discussion, motion by Routzahn to approve the variance request of 4’ as requested, seconded by Rudy. Motion carried (2-1).

**Case MT-B-13-2 (LAM Properties, LLC, 30 East Green Street)** – seeking a special exception approval for a child daycare center within the R-2 district.

Cindy read her staff report and stated that this hearing was properly advertised and posted.

Commission member Kyler stated that we are approving a Special Exception for a daycare center within the R-2 district. Cindy stated that is correct. Christine Mayo with Harris Smariga & Assoc. stated that LAM Properties currently own 3 other daycare centers with one in Frederick County and two in Montgomery County. The proposed Valley School child care center would serve children 6 weeks to 12 years of age. Ms. Mayo provided written testimony to support the use of the child care center and also stated that the applicants will meet all the necessary requirements to open a child care center (copy is attached).

After some discussion, there was a motion by Kyler to approve the special exception request for a child daycare center located at 30 East Green Street, seconded by Routzahn. Motion carried (3-0).

**Case MT-B-13-3 (Middletown Valley Investment Partners, LLC, intersection of Middletown Parkway and Old National Pike (Route 40-A) – seeking a special exception approval for a shopping center in the General Commercial (GC) district.**

Bruce Dean, Attorney for the Middletown Valley Investment Partners, LLC – Mr. Dean stated that he and the development team first met with the Planning Commission about a year ago. Mr. Dean stated that we have had several meetings with them throughout the course of the year in coming up with the proposed concept plan. Mr. Dean submitted a justification statement on behalf of the Middletown Valley Investment Partners, LLC (copy attached herewith).

Commission member Routzahn asked if the developers had any idea of what will be going in Buildings 1 & 2 since they are shown on the concept plan as a drive-thru. Mr. Dean stated that Building 1 could possibly be a pharmacy and Building 2 could be a restaurant or a bank.

Alan Wanuck, 410 Glenbrook Drive – asked if the SWM has been looked at. Mark Crissman with Daft McCune Walker Inc stated that yes the SWM has been looked at and a concept plan has been submitted to Frederick County. Mr. Crissman stated that this is not the phase to address the SWM but once things start to take place with this development we are required to meet all the requirements by Frederick County in regards to the SWM. Mr. Wanuck also asked why there is a 2<sup>nd</sup> entrance across from Glenbrook Drive. It was stated that was a request by the Planning Commission.

Kelly Jones, 1 Tobias Run Court – has traffic concerns and also concerns with the entrance across from Glenbrook Drive.

Commission member Kyler stated that tonight's meeting is for this Board to approve the use of a shopping center.

Louis Moser Dinterman, co-owner of vacant lot behind 718 E. Main Street – stated that she was not notified about the hearing and that she had to find out by another family member about the hearing. Ms. Dinterman stated that she does not like the 6' vinyl fence and that she should not have to sacrifice her property based on a hardship by the developer.

Commission member Kyler re-iterated that tonight's meeting is for this Board to approve the use of a shopping center and nothing more. All the concerns being presented tonight need to be heard by the Planning Commission.

Marilyn Moser, 718 East Main Street – does not want the shrubs/trees abutting her property; it does not keep out the drug traffic or the kids; it's a place for them to hide. Ms. Moser stated that not only will she have the traffic noise in front of her house she will now have it behind her house with delivery trucks coming in, the shopping center lights will shine on her property, if

there is not adequate drainage it will increase the mosquitoes in that area, and she is against this going in on this property.

Thomas Moser, Jr., 718 East Main Street – questioned the SWM areas. Mr. Moser stated that he has been in construction for several years and had some questions in regards to the SWM areas. Mr. Moser also stated that there is a natural water way that runs from the corner of his property down through the proposed building #2.

Mark Carney, Chairman for the Planning Commission – stated that all the concerns that were presented here tonight are valid concerns. Mr. Carney invited all the residents to attend the upcoming Planning Commission workshop and meeting in May. Mr. Carney stated that they will take all concerns into consideration in making any approvals to this property.

Motion by Routzahn to approve the special exception for a shopping center, seconded by Kyler. Motion carried (3-0).

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Ann Griffin,  
Administrative Specialist