MIDDLETOWN PLANNING COMMISSION

Middletown Municipal Center
31 West Main Street
Middletown, MD 21769

AGENDA
Monday, August 20, 2018
7:00 p.m.

I.	**Public Comment**	
II.	Minutes of July 2018 Planning Commission workshop	**Approval**
	Minutes of July 2018 Planning Commission meeting	**Approval**
III.	**Plan Review**	
	St. Thomas More Academy Site Plan Revision	**Review/Approval**
	Cross Stone Commons Black Hog architectural design	**Review/Approval**
IV.	**Zoning**	
	Blighted property ordinance	**Discussion**
V.	**Miscellaneous**	
VI.	**Additional Public Comment**	

**** All requests to be on the Planning Commission agenda must be received at the Middletown Municipal Center, 31 W. Main Street, Middletown by 4:00pm on the Monday two weeks prior to the monthly meeting held on the third Monday of each month. All plans being submitted for review must be folded, and an electronic plan is required as well.**

Maryland law and the Planning Commission's Rules of Procedure regarding ex parte communications require all discussion, review, and consideration of the Commission's business take place only during the Commission's consideration of the item at a scheduled meeting. Telephone calls and meetings with Commission members in advance of the meeting are not permitted. Written communications will be directed to appropriate staff members for response and included in briefing materials for all members of the Commission.

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Workshop **July 11, 2018**

The regular workshop of the Middletown Planning Commission took place on Wednesday, July 11, 2018 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission members Rich Gallagher (Vice-Chairman), Bob Miller, David Lake, and Tom Catania (Ex-Officio). Others present in official capacity: Cindy Unangst (Staff Planner). Other applicants present: Christian Wilson and Ann Miller (Miller property; microbrewery text amendment).

JULY MONTHLY PLANNING COMMISSION WORKSHOP:

PLAN REVIEW –

None

ZONING –

Microbrewery text amendment – Commission member David Lake gave his interpretation of the Town Code in which current language, specifically in Sections 17.32.010 and 17.20.080, would already allow a microbrewery in an existing structure in the TC Town Commercial district. Therefore, it is his opinion that special exception regulations are not needed, and just a definition would suffice. There was discussion about his interpretation and also the draft special exception regulations per the memo provided by Staff Planner, Cindy Unangst. Christian Wilson was asked about the types of licenses required for a microbrewery. It was agreed that both David's suggestion and the draft special exception regulations would be provided to the planning commission for the meeting next Monday, and the PC would forward their recommendation of the two on to the Town Board.

Blighted property ordinance – There was some discussion about a program that Seat Pleasant has in relation to blighted properties. Bob Miller likes the definition of blighted properties that is used by Mt. Airy. Cindy talked about a property in Middletown that is slated for clean-up in September.

MISCELLANEOUS

There was some discussion about the white vinyl fence that is proposed to be re-erected on the Cross Stone Commons property per an e-mail that was sent to the planning commission by Cindy. More discussion will take place on Monday during the meeting.

David asked what is being done about zoning violations. He feels that there needs to be more communication as to actions being taken and the time frame for such.

Workshop adjourned at 8:00pm.

Respectfully submitted,

Cynthia K. Unangst, AICP
Middletown Staff Planner

DRAFT

MIDDLETOWN PLANNING COMMISSION
31 West Main Street
Middletown, Maryland

Regular Meeting **July 16, 2018**

The regular meeting of the Middletown Planning Commission took place on Monday, July 16, 2018 at 7:00 p.m. at the Middletown Municipal Center, 31 West Main Street, Middletown, MD 21769. Those present (quorum) were Commission Vice Chairman Rich Gallagher, Commission members Bob Miller, David Lake, and Dixie Eichelberger. Others present in official capacity: Cindy Unangst (Staff Planner) and Annette Alberghini (Recording Secretary). Others present: Ann Miller (property owner).

JULY MONTHLY PLANNING COMMISSION MEETING:

I. PUBLIC COMMENT – None

II. Regular Workshop Minutes of May 16, 2018 – Approved as submitted

Regular Meeting Minutes of May 21, 2018 – Approved as submitted.

III. PLAN REVIEW

Cross Stone Commons Fence – (no one present for this item). The Staff Planner was contacted by the developer regarding a white vinyl fence that is shown on the approved improvement plans, but which has been relocated from the site due to construction. The developer does not want to re-install the fence once construction is completed. The Staff Planner provided the Planning Commission with copies of renderings provided previously from the developer showing the site both with and without the fence at the front of the property. Current photos of the site were also provided which approximated the view as shown in the renderings. Both the Town Administrator and the Town Engineer agree that the fence is not needed. The Staff Planner proposes that the changes to the approved improvement plans to remove the proposal of the relocated vinyl fence are minor in nature and can be accomplished with staff approval of a redline revision. After discussion the Planning Commission agreed that a redline revision is appropriate.

Action: None needed.

IV. ZONING

Microbrewery Text Amendment – The Planning Commission reviewed the proposed Microbrewery text amendment which would add "microbrewery" as a permitted use in the TC Town Commercial District. By consensus the Planning Commission recommends that "microbreweries" be a permitted use in the GC General Commercial District, but a special exception use in the TC Town Commercial District. Following are the changes to the zoning code as recommended by the Planning Commission:

- Section 17.04.030 – to add a definition for microbrewery and for tasting room (to be defined later)

Microbrewery – facility used for the production of less than 1,000 barrels of beer annually, where such beverages are brewed for consumption at an on-site tasting room, or sold as packaged goods or distribution wholesale and which possesses the appropriate license from the State of Maryland.

- Section 17.20.010(B)(9) – to add microbreweries under light assembly and fabricating list

- Section 17.20.010(C)(6)- to add microbreweries as a special exception use in the TC district

- Section 17.48.420 - to include specific standards for the microbrewery special exception use which would include the following:
    a. The appearance of the microbrewery shall be compatible with and harmonize with the surrounding buildings and neighboring community. A site plan of the microbrewery and tasting room shall be submitted to the planning commission for review and approval and changes shall be made as necessary;
    b. During the site plan process, an engineer's certificate may be required regarding noise, dust, vibration and odor for review. The certificate shall certify that the proposed operation will not increase the impacts from the above noise, dust, vibration and odor beyond other permitted uses detectable at the property line. Hours of operation may be restricted by the planning commission due to noise, light and pedestrian or vehicle traffic;
    c. The microbrewery shall meet the town's standards concerning noise and congestion. The microbrewery shall be closed by 10pm as governed by current Maryland State law;
    d. The use of outside amplified music is not permitted for the microbrewery use.

The Staff Planner stated that a neighbor to the Miller property had sent an email listing concerns and recommendations regarding a proposed future microbrewery at that specific location. The Staff Planner replied to this neighbor explaining the process regarding this text amendment and the planning commission is only providing a recommendation to the Town Board. The Town Board will set a public hearing date and will provide opportunities for public comment.

Blighted Property Ordinance – The Planning Commission decided to table this item for discussion until after the next joint town board/planning commission meeting in August.

V. MISCELLANEOUS

Cell Trends Property – The Staff Planner reported that the zoning certificate for change of tenant at this location was approved July 3, 2018.

VI. ADDITIONAL PUBLIC COMMENT – None.

Meeting adjourned at 7:30pm.

Respectfully submitted,

Annette Alberghini
Recording Secretary

DRAFT

Middletown Planning Office

MEMORANDUM

Date: 8/20/2018
Hansen#

To: Middletown Planning Commission

From: Cynthia K. Unangst, Middletown Staff Planner

RE: **SAINT THOMAS MORE ACADEMY REVISED SITE PLAN**
Tax Map Parcel #03-0140334
Applicant: Saint Thomas More Academy (Patricia Neumark, Dean)
Property Owner: Board of County School Commission of Frederick County
Plan Dated: June 2012; **amendment dated August 6, 2018**
Date Received: August 6, 2018

GENERAL INFORMATION

Proposal: Amendment to site plan to add two temporary classroom structures to the school property

Location: 103 Prospect Street, between East Main Street and Franklin Street.

Zoning: R-2 Residential. This district permits churches, schools, libraries, museums and parks, playgrounds, and family day care homes, as well as single-family dwellings, two-family dwellings and duplexes.

Present Use: Private school

COMMENTS

The following issues should be considered in your review of this revised Site Plan:

1. **Use** – The use is a private school with 85 students and 15 staff with approximate hours of operation from 8:00am-3:15pm Monday thru Friday which was approved by the Planning Commission on July 16, 2012. An amendment to the hours of operation was approved by the Planning Commission on October 15, 2012, which in effect deleted the approximate hours of operation from the approved site plan. Typically, the regular hours of operation are 7:00am-3:30pm Monday through Friday for regular school activities. From 3:30-6:00pm, Monday through Friday, a small group of children numbering 6 or less, but occasionally up to 10, stay after school for the homework club. All club members are picked up no later than 6pm. Three days a week, various student clubs meet after school until 4:30pm, which could include 8-20 children. Once per month, the PTO meets at the school from 7:00-9:30pm.

2. **Temporary use** – The proposed temporary use is for each of two temporary 20 x 20 modular buildings to be classrooms with 15 students and 1 teacher from 8:00am-3:15pm Monday thru

Friday. The fifteen students will go back and forth between the two buildings to attend various subject classes. The applicant has stated that the temporary use of the classroom buildings would most likely be for five or six years. Their intent is to purchase both the school building at 103 Prospect Street (which is going thru the approval process at the state level currently), and the library building after the new library is built on East Green Street. It is staff's opinion that the site plan be revisited after five years in order to ascertain that the temporary classrooms don't become permanent without proper approval from the planning commission.

3. **Accessory use or building** – The definition of an accessory use or building according to the Middletown Municipal Code is as follows: "Accessory use or building" means a use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. An accessory building is not attached by any part of a common wall or common roof to the principal building.

4. **Site plans required for approval by planning commission** – According to Section 17.32.230, site plans are required for all institutional buildings unless all of the following conditions are met: A. There is no change in the amount of parking needed; B. The intensity of use has not changed; C. There are no exterior structural changes; D. The building or use has not been grandfathered; E. The building or site meets all existing regulations for the district in which it is located. Since the intensity of use is proposed to change, the site plan does require approval by the planning commission. The planning commission is being provided a site plan that shows the proposed location of the temporary structures.

5. **Yard requirements** – According to Section 17.32.170(D), one-story accessory buildings with a maximum height of twenty-five (25) feet may project into yards provided that: (1) the building does not occupy more than thirty (30) percent of the rear yard; (2) when more than ten (10) feet from the building, it may project into the side or rear yards providing it projects no closer than six feet to the side or rear lot lines. The revised site plan shows the temporary classrooms to be located ten feet from the northern side lot line which is adjacent to the Middletown Library property. The applicant would like to place the classrooms six feet from the side lot line, if allowed. Placing the temporary classrooms closer to the lot line would provide more of the rear yard to be used for other purposes.

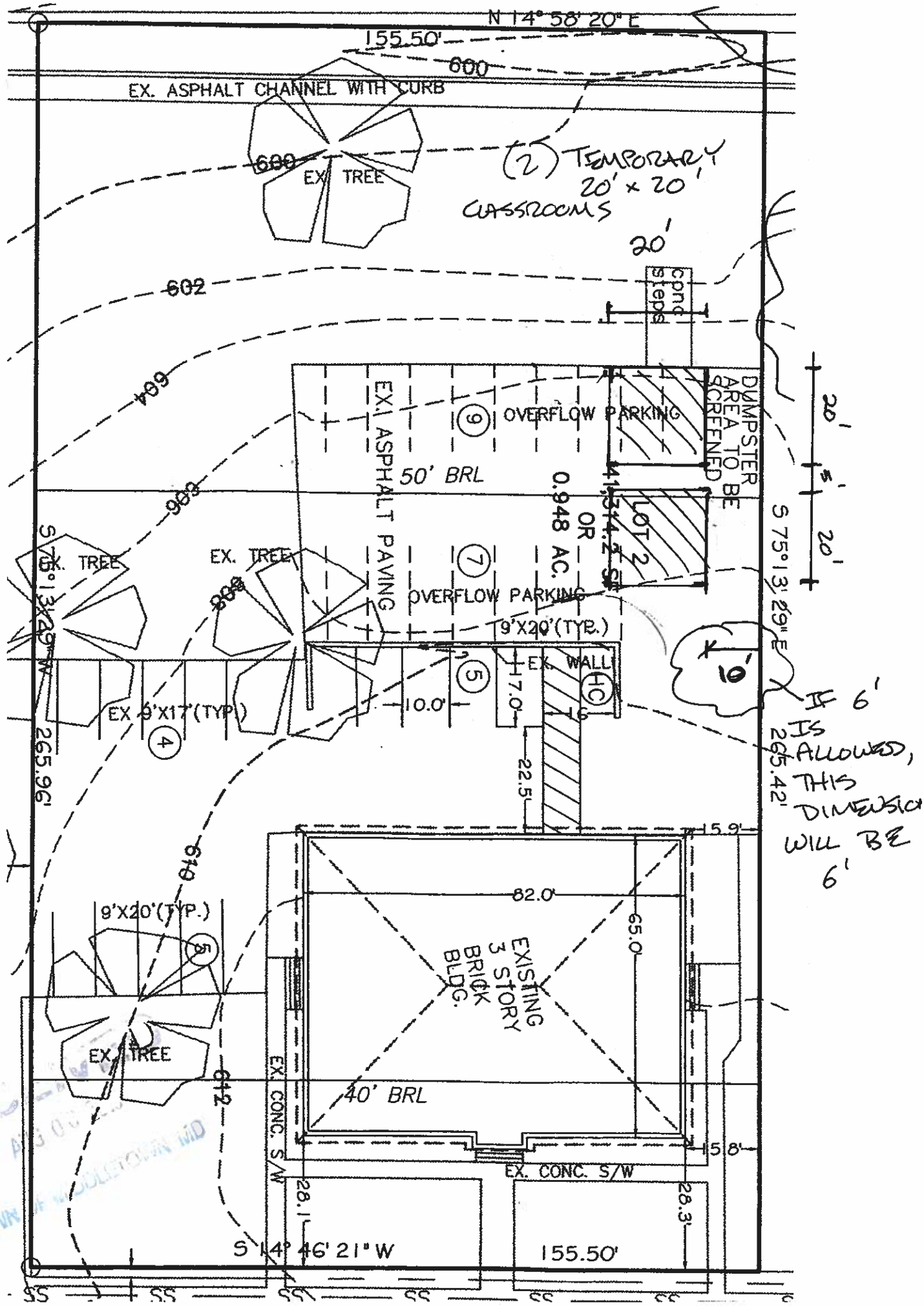
   Although the site plan shows a dumpster area adjacent to the proposed classroom buildings, the dumpster area is actually located on the northern side of the building as shown in an accompanying photo. It was noted at the Planning Commission workshop that the dumpsters should be screened from adjoining properties.

6. **Parking** – Section 17.32.060B of the Middletown Municipal Code states that the minimum number of parking spaces for schools is subject to site plan approval. The Code also states that parking requirements may be waived or reduced by the planning commission in any instances based on a demonstrated hardship. The approved site plan showed existing parking of 15 spaces which included one handicapped parking space, and 16 overflow parking spaces. The proposed classroom buildings would impede on the overflow parking area. Staff has been told that the overflow parking area is rarely used for that use, and locating the buildings six feet from the lot

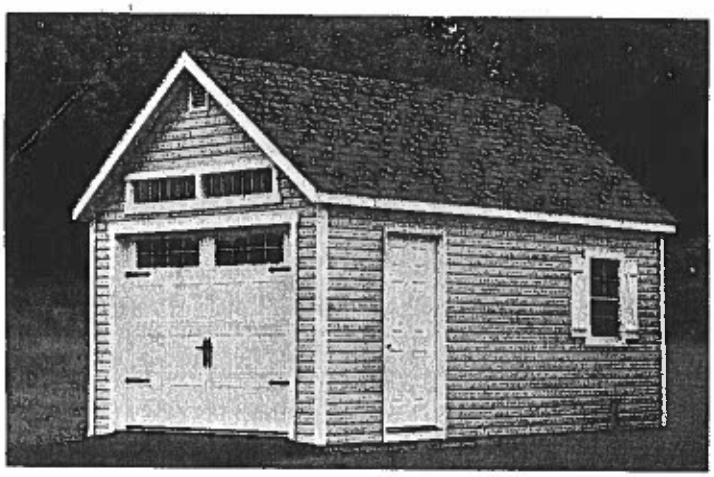
line (instead of ten feet) would lessen the impact. Staff was also told that existing parking is adequate for all the employee and visitor needs.

7. **Approval by Frederick County** – An external improvements application will need to be filed with the Frederick County Permits department.

This review will be included in the Middletown Planning Commission materials for the August 20, 2018 public meeting. The applicant is encouraged to attend this meeting and the workshop on the Wednesday prior to the meeting which will be August 15, 2018.



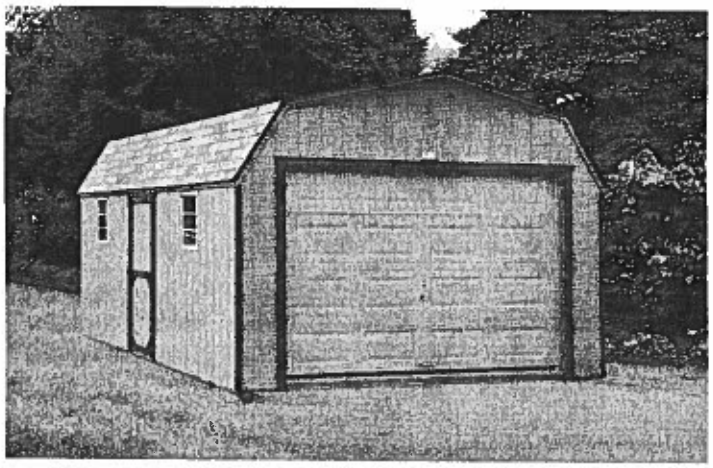
RECEIVED
AUG 0
TOWN OF WOODSTOWN MD



ADDISON GARAGE

12x20 Addison

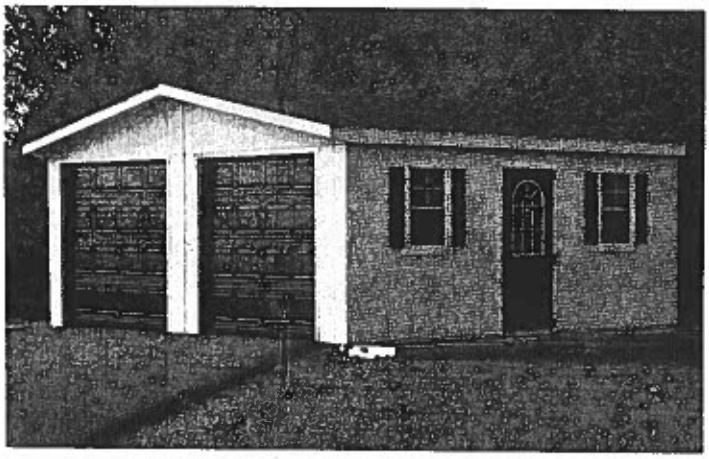
- Gray Vinyl Siding | White Trim | Dark Gray Shingles Shown with Optional House Type Door



HI BARN GARAGE

12x24 Hi Barn

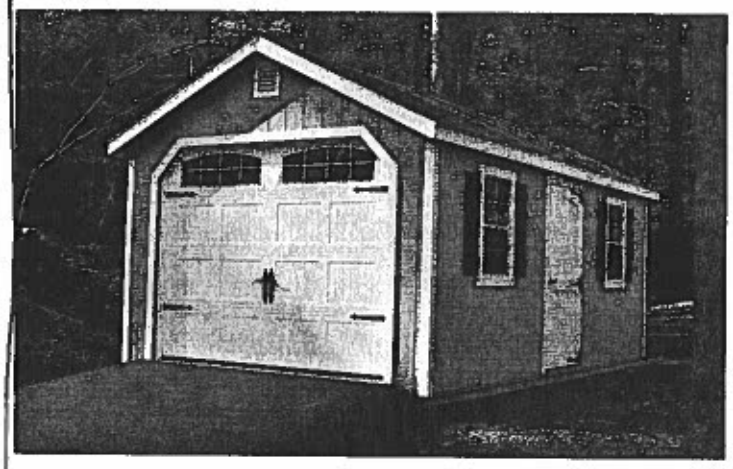
- Clay Painted Siding | Dark Green Trim | Light Gray Shingles | Garage Door in Optional Clay Color



MODULAR GARAGE

20x20 Modular

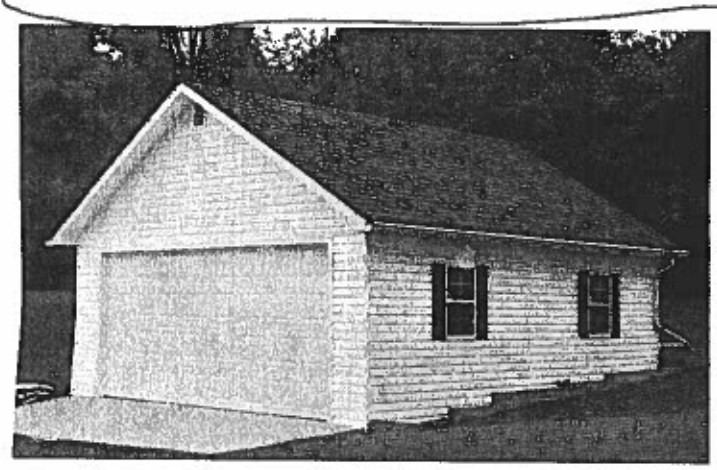
- Pearl Painted Siding | White Trim | Black Shingles Black Shutters | Optional 11-Lite Fiberglass Doors Painted Black



CLASSIC GARAGE

12x22 Classic Garage

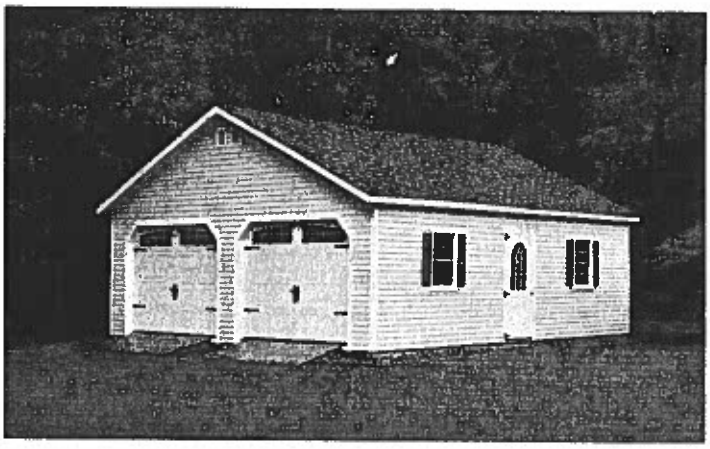
- Beige Painted Siding | White Trim | Weatherwood Shingles | Black Shutters | White Door



TRUSS GARAGE

20x20 Truss Garage

- Whtie Vinyl Siding | White Trim | Black Shingles Black Shutters



RAISED ROOF GARAGE

26x26 Raised Roof

- Classic Linen Vinyl Siding | White Trim | Dark Gray Shingles | Navy Blue Shutters | Shown with Optional Ramps and 11-Light in Single Door

12 SOUTH CHURCH STREET
100 EAST MAIN STREET
104 EAST MAIN STREET
UNK
100 PROSPECT STREET
PROSPECT
102 PROSPECT STREET
104 PROSPECT STREET
106 PROSPECT STREET
111 PROSPECT STREET

12 SOUTH CHURCH STREET
100 EAST MAIN STREET
104 EAST MAIN STREET
UNK
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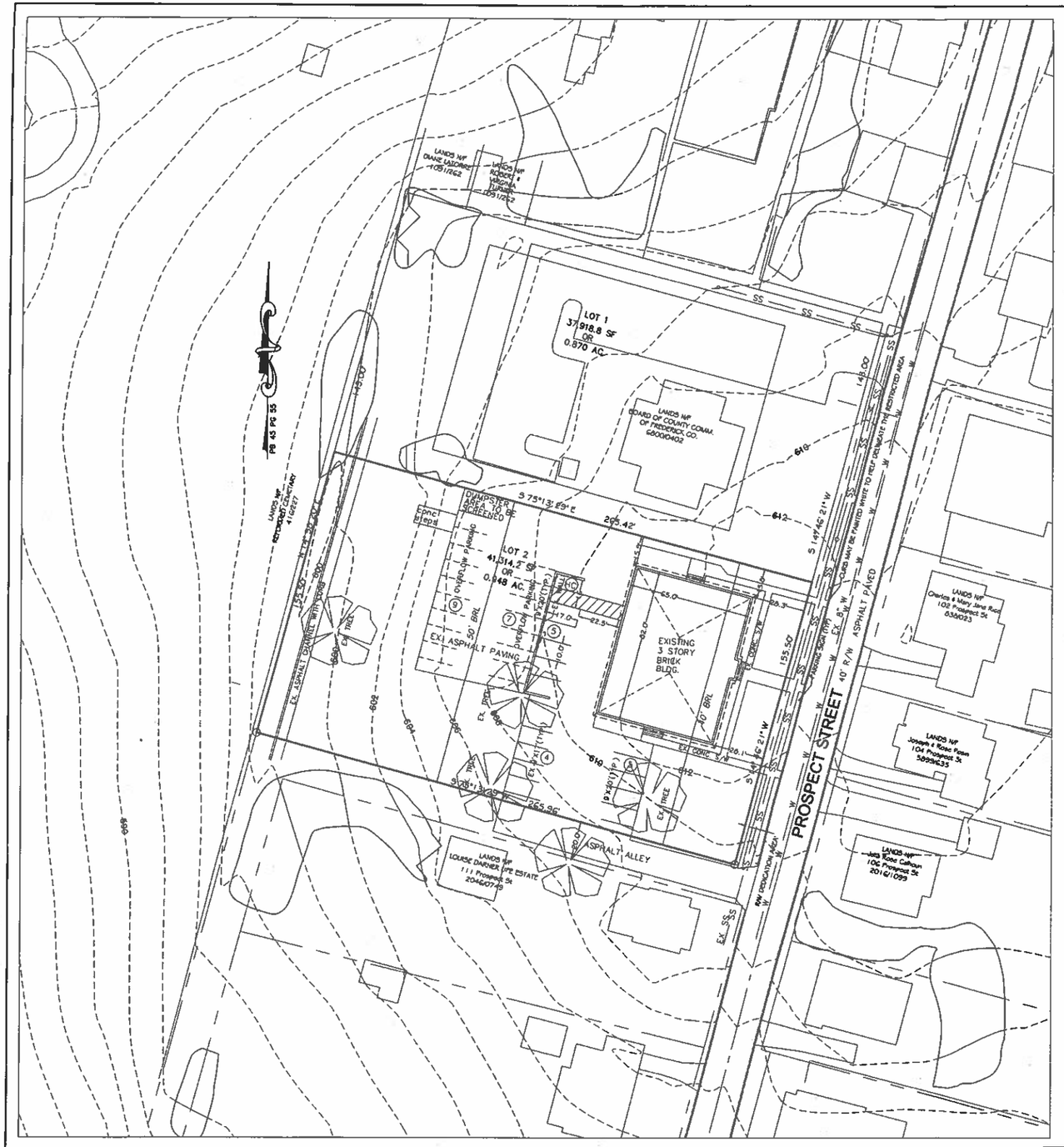
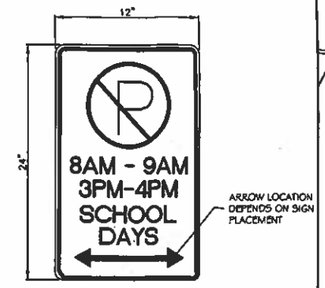
111 PROSPECT STREET

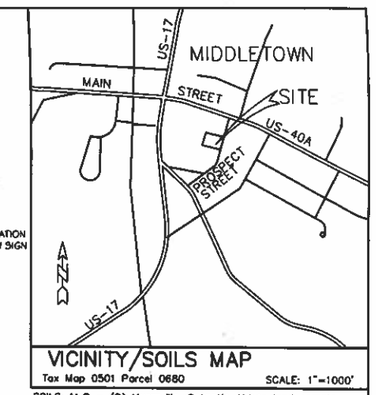




R7-2(3) Modified (MUTCD)
(12"W X 24"H)

NO PARKING – SCHOOL DAYS

NOT TO SCALE



VICINITY/SOILS MAP

Tax Map 0501 Parcel 0680 SCALE: 1"=1000'

SOILS: MyB – (B) Myersville–Catoctin–Urban land complex, 3 to 8 percent slopes

SITE PLAN NOTES:

1. ZONING: The site is zoned Residential (R2)
2. AREA: The site area is approximately 41,314 SF OR 0.948 acres
3. EXISTING USE: Office PROPOSED USE: Private School
4. PROPERTY INFORMATION: Map 501 Parcel 0680
5. OWNER: Board of County School Commission of Frederick County
   191 South East Street
   Frederick, MD 21701

5a. APPLICANT: Saint Thomas More Academy
   P.O. Box 879
   Buckeystown, MD 21717

6. AREA SUMMARY:
   EXISTING BUILDING – 5,330 SF OR 0.122 AC.
   EXISTING PAVING – 14,810 SF OR 0.338 AC. } 2.482X IMP.
   EXISTING GREEN SPACE – 21,374 SF OR 0.490 AC.
   TOTAL GROSS FLOOR AREA – 13,980 SF
7. PARKING SUMMARY:
   PARKING REQUIREMENTS FOR A SCHOOL USE WILL BE DETERMINED BY THE PC
   PARKING PROVIDED:
   EX 10' x 17' SPACES = 9
   9' x 20' SPACES = 5
   HANDICAP SPACES = 1
   PARKING PROVIDED = 15 SPACES
   OVER FLOW PARKING PROVIDED = 16
8. BUILDING SETBACKS:
   REQUIRED: Front = 40' Side = 100' Rear = 100'
   PLATTED: Front = 50' Side = 15' Rear = 50'
   EXISTING: Front = 28.1' Side = 15.8' Rear = 172.5'
   BUILDING HEIGHT = Unknown – Existed since 1910
9. LIGHTING:
   Existing lighting is building mounted.
   Any future pole mounted lighting shall be approved by the Planning Commission.
10. WETLANDS/FLOODPLAIN:
   There is no wetlands located on this site.
   There is no floodplain located on this site per FEMA panel #24021C0206D.
11. STORMWATER MANAGEMENT:
   Stormwater Management is provided in accordance with the
   MD 2000 SEC. 1.2.2 design criteria < 5,000 SF DISTURBANCE.
12. TRASH:
   Trash pickup will be provided by a private company.
13. FORESTATION:
   The site is exempt from the Forest Conservation requirements under section 18.40.01.3 (L) for real estate transfers.
14. HANDICAP ACCESSIBILITY:
   The site will be in conformance with the State of Maryland
   Accessibility Code.
15. Topography from Frederick County GIS and boundary is per plat book 43 pg. 55.
16. ~~[illegible]~~
17. Site population for St. Thomas More Academy is approximately
   105 students and 19 staff.
18. The water and sewer classification on site is W-1 and S-1.

TOWN OF MIDDLETOWN PLANNING COMMISSION

APPROVED: Cynthia L. Hamnett 7/18/2012
Planning Commission Clerk
For: Mark Gray, Chairman 10/23/2012

OWNER:
Board of County Schools
Comm. of Frederick Co.
191 South E. Street
Frederick, MD 21701

APPLICANT:
Saint Thomas More Academy
3989 Buckeystown Pike
PO Box 879
Buckeystown, MD. 21717

B & R DESIGN GROUP
300 W. Patrick St. • Frederick • MD • 21701
ph: 301-668-0505 • fax: 301-668-0507

REVISIONS:
2012-07-12 Revisions based on PC workshop comments
2012-07-17 Revisions based on PC approval conditions

SITE PLAN

SAINT THOMAS MORE ACADEMY

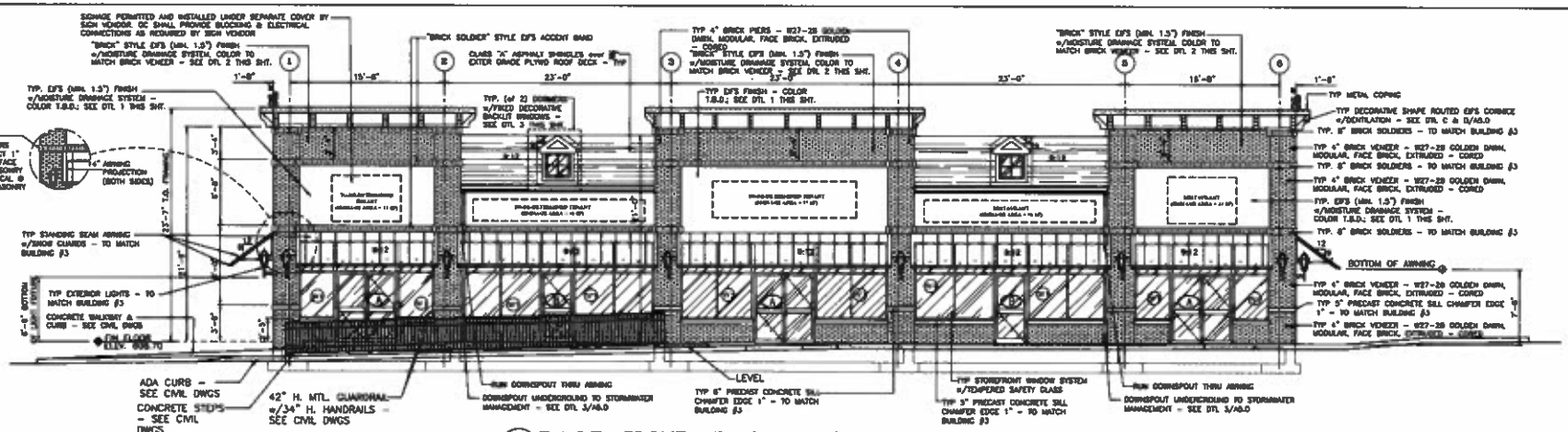
TAX ID # 03-140334
SITUATED AT 103 PROSPECT STREET
MIDDLETOWN, MD 21703
MIDDLETOWN ELECTION DISTRICT NO. 3
FREDERICK COUNTY, MARYLAND

SCALE:	1" = 30'
DRAWN BY:	JML
CHECKED BY:	REC
DATE:	JUNE, 2012
SHEET:	1
OF:	1
PROJECT:	04-199C

SP-1

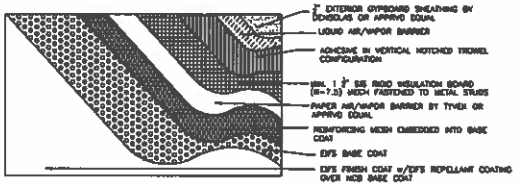
07/10/2012

BLACK HOG
BLACK HOG



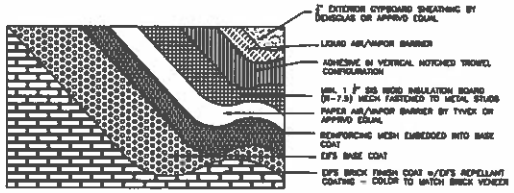
1 EAST (FRONT) ELEVATION

SCALE: 1/16" = 1'-0"



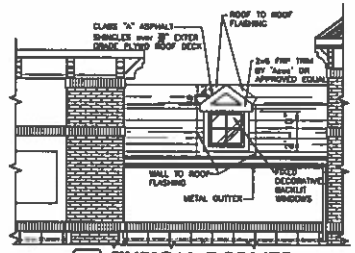
1 EIFS FINISH = DRYVIT OUTSULATION-PLUS SYSTEM w/MOISTURE DRAINAGE SYSTEM OR APPROVED EQUAL

NOT TO SCALE — *EIFS EXPANSION JOINT MAXIMUM SPACING @ 75'-0"*



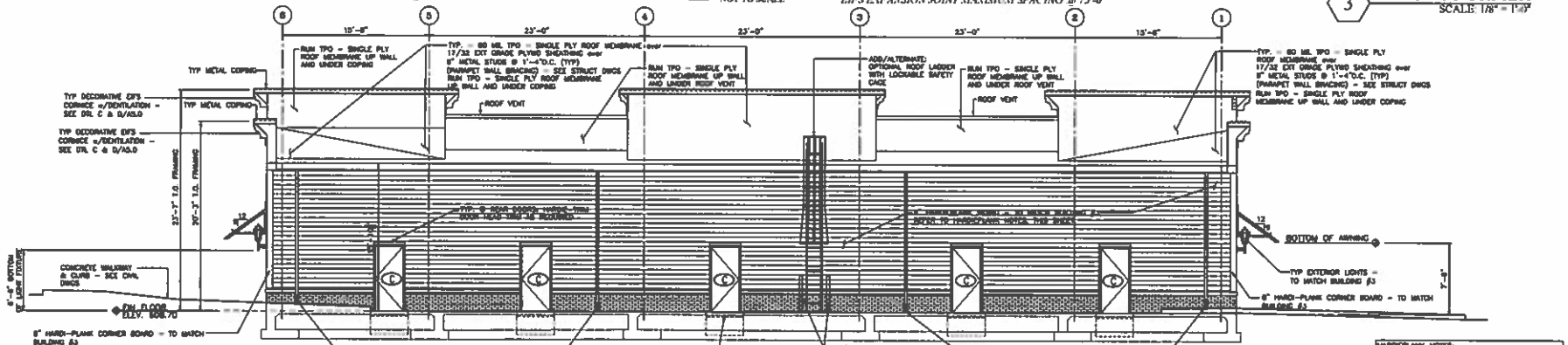
2 "BRICK" FINISH EIFS = DRYVIT OUTSULATION-PLUS SYSTEM w/MOISTURE DRAINAGE SYSTEM OR APPROVED EQUAL

NOT TO SCALE — *EIFS EXPANSION JOINT MAXIMUM SPACING @ 75'-0"*



3 TYPICAL DORMER

SCALE: 1/8" = 1'-0"



HARDIPLANK NOTES:
- CONTRACTOR TO REFER TO HARDIPLANK INSTALLATION GUIDELINES AS REQUIRED.
- INSTALL FURRING PER HARDIPLANK GUIDELINES: PER HARDIPLANK GUIDELINES FURRING MAY BE WOOD,STEEL, OR WOOD STRUCTURAL PANEL (WSP)

2 WEST (REAR) ELEVATION

SCALE: 1/16" = 1'-0"

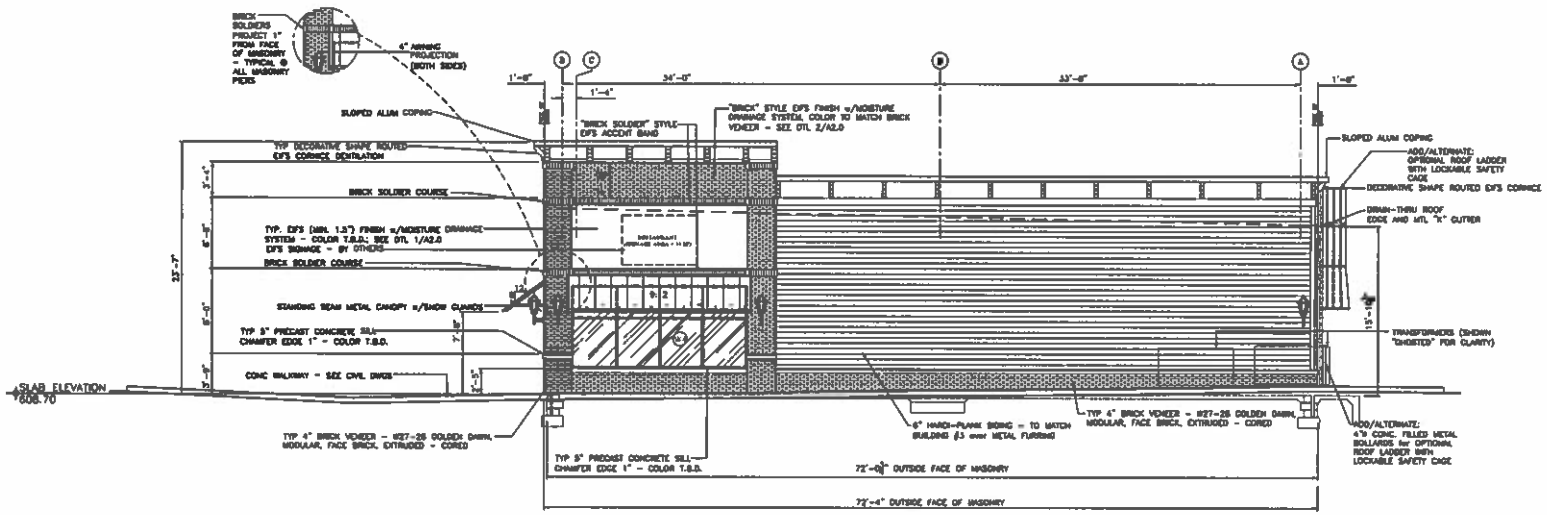
ADW ARCHITECTURAL DESIGN & WORKS INCORPORATED
DESIGNING VALUE
22 W. ALLEGHENY AVE SUITE 101
TOWSON, MARYLAND 21204

BUILDING #4 — CROSS STONE COMMONS — MIDDLETOWN PARKWAY, MIDDLETOWN, FREDERICK COUNTY, MARYLAND 21769

OWNER/DEVELOPER

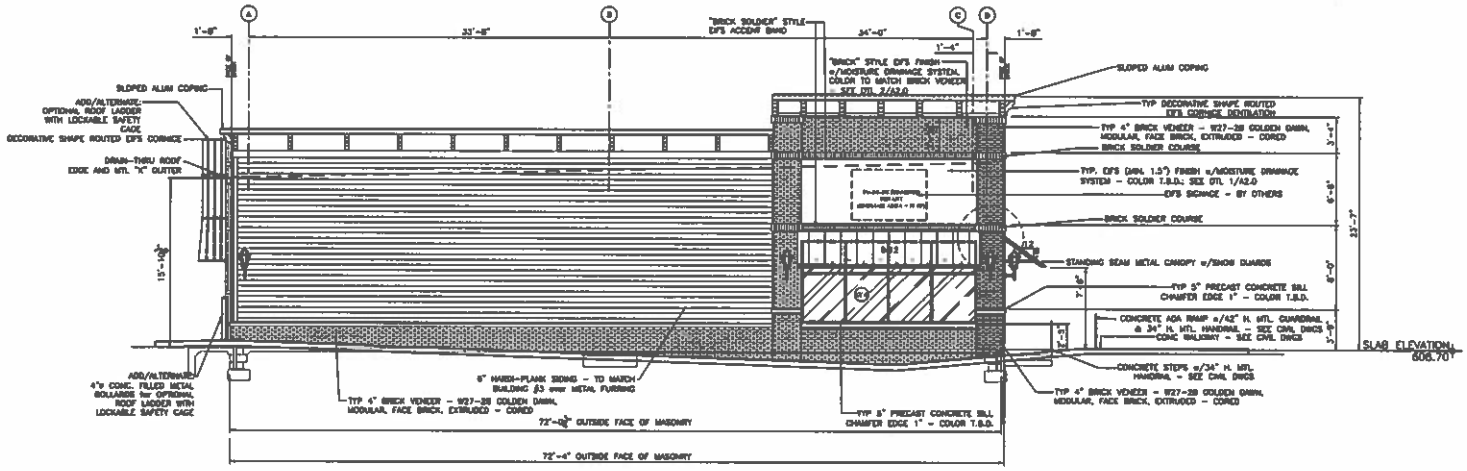
REVISIONS:

DRAWN BY: ARH
REVIEWED BY: RW
PROJECT NO.: 2017.280.04
DATE: 03/28/17
SCALE: AS SHOWN
DWG: BUILDING ELEVATIONS
SHEET NO.: A-2.0



1 NORTH (RIGHT) ELEVATION

SCALE: 1/16" = 1'-0"



2 SOUTH (LEFT) ELEVATION

SCALE: 1/16" = 1'-0"

ADW
ARCHITECTURAL DESIGN • WORKS INCORPORATED
DESIGNING VALUE

BUILDING #4
CROSS STONE COMMONS
100 MIDDLETOWN PARKWAY, MIDDLETOWN
FREDERICK COUNTY, MARYLAND 21769

OWNER/DEVELOPER

REVISIONS:

DRAWN BY: ARH
REVIEWED BY: RV
PROJECT NO. 2017.200.04
DATE: 03/28/17
SCALE: AS SHOWN
DWG: BUILDING ELEVATIONS
SHEET NO.: A-2.1

CROSS STONE
COMMONS
PET STORE
PET STORE
RESTAURANT
RESTAURANT
RESTAURANT
SHOP

DRAFT

ORDINANCE NO. 06-__-__

AN ORDINANCE TO ADD NEW SECTION _____, ENTITLED "DEMOLITION BY NEGLECT, UNSAFE BUILDINGS," OF THE MIDDLETOWN MUNICIPAL CODE BY ADDING REGULATIONS FOR UNSAFE BUILDINGS OR STRUCTURES LOCATED IN THE TOWN OF MIDDLETOWN, AND PROHIBITING DEMOLITION BY NEGLECT OF BUILDINGS OR STRUCTURES LOCATED IN THE TOWN OF MIDDLETOWN.

WHEREAS, at a meeting of the Burgess and Commissioners of the Town of Middletown held on September 11, 2006, the Burgess and Commissioners discussed the possibility of the need for a period of time to review and study the existing Ordinance, Section 17.32.160, governing the demolition of structures located within the municipal corporate town limits of the Town of Middletown and the possibility of the need for a review period to consider possible alternatives and revisions to the existing Ordinance; and

WHEREAS, after studying the existing demolition ordinance the Burgess and Commissioners find that it would be in the best interests of the Town of Middletown, in order to protect the public health, safety and welfare of residents and property, to adopt an ordinance to impose restrictions on unsafe buildings or structures located in the Town of Middletown and to prohibit the demolition by neglect of any buildings or structures located in the Town of Middletown.

NOW, THEREFORE,

SECTION 1. BE IT ENACTED AND ORDAINED BY THE BURGESS AND COMMISSIONERS OF THE TOWN OF MIDDLETOWN, that Section _____ of the

Middletown Municipal Code, entitled "Demolition by Neglect – Unsafe Buildings.", is hereby added to impose conditions on unsafe buildings and to prohibit the demolition by neglect of any buildings or structures located within the municipal corporate town limits of the Town of Middletown, as follows:

____. **Demolition by Neglect; Unsafe buildings**.

A. Unsafe Buildings; Procedure and Notice. All buildings or structures located within the Town of Middletown which are deemed by the Town Engineer or other agent as appointed by the Burgess and Commissioners to be unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard or are otherwise deemed dangerous to human life, or which in relation to the existing condition and use constitute a hazard to public safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are severally, in contemplation of this section, considered to be "unsafe buildings." All such unsafe buildings are hereby declared to be illegal and shall be required to be abated by repair and rehabilitation or by demolition in accordance with the following procedures:

1. Whenever the Town Engineer or other agent as appointed by the Burgess and Commissioners, shall find any building or structure or portion thereof to be unsafe, as defined in this section, it shall give the owner, agent or person in control of such building or structure written notice thereof stating the defects. Such notice shall require the owner, within the time period set forth in the notice, either to complete the specified repairs or improvements or to demolish and remove the building or structure or unsafe portion thereof. A copy of such notice, in addition to the notice, if any, required by paragraph 2 below shall also be posted on the property.

2. If deemed necessary by the Town Engineer or other agent as appointed by the Burgess and Commissioners, such notice shall also require the building, structure or portion thereof to be vacated immediately and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Town's agent. The Town's agent shall cause to be posted at each entrance to such building a notice stating as follows: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BURGESS AND COMMISSIONERS OF THE TOWN OF MIDDLETOWN." Such notice shall remain posted upon the property until all required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents or other representatives to remove such notice without the prior written permission of the Burgess and Commissioners or their agent, or for any person to enter the building except for the purpose of making the required repairs or for purposes of demolishing the building.

B. Appeals. The owner of the property shall have the right, except in cases of emergency, to appear before the Board of Appeals at a time and place specified in the notice to show cause why he should not comply with the requirements of the notice. If such right hereby provided for shall be exercised by the owner, the Board of Appeals may, after affording the owner an opportunity to be heard, either affirm, set aside or modify the original notice and order.

C. Action of Town's Agent upon failure to comply. In the event that the owner, agent or person in control of the property cannot be located within the stated time limit set forth in the original notice or, if such owner, agent or person in control, shall fail, neglect or refuse to comply timely with said notice to repair, rehabilitate or to demolish and remove said building or structure or portion thereof as ordered, the Town's agent, after having ascertained the costs, shall

cause such building or structure or portion thereof to be demolished, secured or to remain vacant, as deemed necessary.

D. Emergencies involving imminent danger. In the event of an emergency or exigent circumstances involving imminent danger to human life or health or public safety, the Burgess and Commissioners shall have the authority to order the Town's agent promptly to cause such building, structure or portion thereof to be made safe or removed. For this purpose, the Town Engineer or other agent as appointed by the Burgess and Commissioners, or employees may at once enter such structure and/or the land on which it is located, and/or abutting land or structures with such assistance and at such costs as may be deemed necessary. Town Engineer or other agent as appointed by the Burgess and Commissioners may further require adjacent structures to be vacated or otherwise protect the public by providing appropriate safety fencing or by such other means as may be deemed necessary, and for this purpose may temporarily close a public or private way for such purposes.

E. Assessment of costs; lien; interest. The costs of any such work ordered by the Town Engineer or other agent as appointed by the Burgess and Commissioners pursuant to paragraph C and D, unless paid in full by the property owner within thirty (30) days after the same is billed by the Town, shall constitute a lien on the property, and shall bear interest from and after said thirty (30) days at the rate of one percent (1%) per month or portion thereof, and the cost thereof, including any interest accrued thereon, if not paid, shall be added to the next annual real estate tax bill of such owner, and the Town shall not accept payment for or receipt of said real estate tax bill unless the amount so assessed against said owner, with interest accrued thereon, is included in the amount paid.

F. Release, waiver and indemnification agreement. In the event that the owner is required to demolish and remove the building or structure or portion thereof, the owner shall be required to execute a release, waiver and indemnification agreement prepared by the Town of Middletown. Said agreement shall require the property owner to waive and release any and all claims against the Town of Middletown, it officials, employees and/or agents and any affected Emergency Services Agencies pertaining to the demolition, and shall require the owner to indemnify and hold harmless the Town of Middletown, it officials, employees and/or agents, and any affected Emergency Services Agencies from and against any and all liability for any damage, loss or injury, to person or to other property upon or outside the building or structure or portion thereof deemed to be unsafe; any property or premises, adjacent to said property; or any other premises damaged in any way by said demolition, regardless of whether the liability or damage is by reason of any carelessness or negligence of the officials, employees or agents of the Town of Middletown and any affected Emergency Services Agencies or otherwise.

INTRODUCED AND PASSED on this _____ day of _____, 200___

EFFECTIVE DATE: _____

ATTEST:

BURGESS AND COMMISSIONERS OF THE TOWN OF MIDDLETOWN, MARYLAND

_____
Andrew T. Bowen, Town Administrator

By: _____
John D. Miller, Burgess

Town of Mount Airy, MD
Monday, April 23, 2018

Chapter 85. Property Maintenance

§ 85-1. Definitions.

[Amended 10-7-2013 by Ord. No. 2013-13]
For the purposes of this chapter, the following terms shall have the meanings indicated:

BLIGHTED STRUCTURE

Any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse, or any other structure or part of a structure, to include private driveways and parking lots thereto, which:
[Amended 3-7-2016 by Ord. No. 2016-3]

add noxious weeds as well

A. Because of fire, wind, other natural disaster, vandalism or physical deterioration is no longer habitable as a dwelling, is no longer useful for the purpose for which it was originally intended, or, as respects private driveways and parking lots, has been allowed to deteriorate to the point where deep and numerous potholes, cracks and voids in paving have developed which pose a risk of injury or of property damage and to the point that commercial business operating in such structures or on surrounding properties has been or is likely to be adversely affected; or

B. Is partially completed and which is not presently being constructed under an existing, valid building permit issued by or under the authority of the Town of Mount Airy; or

C. Is not structurally sound, weathertight, waterproof or verminproof; or

D. Is not covered by a water-resistant paint or other waterproof covering so as to protect said structure from the adverse effects of the elements or from physical deterioration; or

E. Contains one or more exterior openings for a period of 60 days or more not covered by a functional door or unbroken glazed window or which is not in the case of a vacant building neatly boarded up and protected against the elements and from vandals and rodents and other animals.

BUILDING MATERIAL

Any lumber, bricks, concrete, cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, cement, nails, screws, or other material commonly used in the construction or repair of any buildings or structures.

DWELLING

Any house or building or portion thereof which is occupied in whole or in part as a home, residence or sleeping place of one or more human beings, either permanently or transiently.

DWELLING UNIT

A room or group of rooms intended to be occupied by one family or household as their home and where they sleep.

HABITABLE ROOM

A room which is designed or may be used for living, sleeping, eating or cooking. Storerooms, bathrooms, toilets, closets, halls or spaces in attics or basements are not habitable rooms except as permitted in § **85-15**, entitled "Basement dwelling units."

JUNK

MEMORANDUM

Date: 4/27/2018

To: Burgess and Commissioners, Middletown

From: Cynthia K. Unangst, Middletown Staff Planner

RE: Blighted Property regulation examples

In researching how other municipalities deal with blighted properties, there appears to be several different ways that they go about doing this. Below are examples of regulations used by various municipalities.

Seat Pleasant, MD
Under Chapter 67 – Buildings, Unfit; Property Maintenance – of their Municipal Code, they have designated a Code Official that serves at the pleasure of the City Council and who enforces the Minimum Livability Code, and inspects properties as to whether they are fit for human habitation and occupancy, among other things. A relatively new City Code mandates that all vacant structures and lots be registered and partnered with a Vacant Building or Lot Plan. The vacant lot filing fee is $75 and registration fees start at $300.

Mount Airy, MD
Under Chapter 85, Property Maintenance, they have definitions of blighted structure and vacant building. A Health Officer may be appointed by the Mayor who shall enforce the provisions of the health ordinances of the Town; if no such appointment is made, the Mayor shall act as the Health Officer. Under this chapter, there are provisions that dwellings, commercial and industrial structures, yards and lots must be kept clean, and if the owner fails to comply, there are remedies in place to address such situations.

Annapolis, MD
Under Chapter 17.40 – Residential Property Maintenance Code, they have a section on vacant structures which requires the structure and/or property to be kept in a clean, safe, secure and sanitary condition. The Director of Planning and Zoning may make inspections of premises to determine whether the conditions comply with this chapter. There are also procedures and requirements for the condemnation and placarding of unfit dwellings, as well as the subsequent demolition of dwellings unfit for human habitation.

Washington, DC
DC has Vacant and Blighted tax classifications. Essentially, your property taxes go up to 5% of the assessed value per year for vacant buildings, and 10% per year for blighted buildings. Officials there have stated that it's been incredibly helpful in urging long-time speculators to either sell their buildings or at least convert them into a productive use while they wait.

Burkittsville, MD
Burkittsville has a Demolition by Neglect ordinance, as well as a Code section entitled "Private Responsibilities." This section states that the owner must maintain the structure and its exit ways in a

safe and sanitary condition at all times; the exterior of any dwelling unit and its appurtenances shall be maintained in a safe and sanitary condition in accordance with the relevant provisions of the Code of the Town of Burkittsville and with the provisions of Article II and Article III of the Code of Frederick County, MD entitled "Unsafe Buildings" and "Minimum Livability Code" respectively. To enforce the provisions of this section, the Mayor and Council designate the Environmental Management Administrator/Zoning Administrator to investigate violations or complaints. The Demolition by Neglect ordinance was derived to safeguard the historical and cultural heritage of Burkittsville's Historic Village District.

Centreville, MD

Chapter 31 – Buildings, Dangerous, includes definitions of defects which shall deem buildings or structures as "dangerous buildings," and has standards for repair or demolition to be followed if determined to be a dangerous building by the Building Inspector. The chapter also includes the duties of the building inspector, duties of the town council, and violations and penalties.

OLR RESEARCH REPORT

November 21, 2013 2013-R-0422

COMPARISON OF MUNICIPAL BLIGHT ORDINANCES

By: Julia Singer Bansal, Legislative Analyst II

You asked for an analysis of municipal blight ordinances and a comparison of how they define blight.

SUMMARY

Municipalities derive their power to adopt blight ordinances from the municipal powers statutes. These statutes give municipalities the broad authority to protect, preserve, and promote public health, safety, and welfare. They also specifically authorize municipalities to make and enforce regulations for the prevention and remediation of housing blight (CGS § 7-148). Many municipalities have exercised this authority by passing blight ordinances.

We reviewed over 30 such blight ordinances from a cross section of Connecticut municipalities and found that most have the same core provisions defining blight and establishing procedures for citing properties and appealing citations. Specifically, they contain provisions concerning:

1. purpose,

2. scope,

3. definitions,

4. property owner duties,

5. complaints and enforcement,

6. administrative procedures, and

7. remediation measures.

In addition, some ordinances, though not a majority, have provisions concerning (1) remediation incentives, (2) special assessments, or (3) hardship waivers.

Ordinances generally define the term "blighted premises," not "blight," and list conditions that constitute such a premises (e.g., broken windows or interference with neighbors' use of

their property). Most ordinances define the term broadly and specify that the presence of just one of the many listed conditions constitutes a blighted premises.

CORE PROVISIONS

Nearly all of the blight ordinances we reviewed contain the same core provisions. Generally, they define blight and establish procedures for citing properties and appealing citations. We describe the core provisions below.

Declaration of Purpose

Most municipal blight ordinances have a "declaration of purpose" section in which they establish the reasons for, and intent behind, the policy. Commonly cited reasons for blight ordinances are (1) correcting existing blight; (2) promoting public health, safety, and welfare; and (3) preserving property values.

Scope

The ordinances establish their scope by specifying the properties or structures to which they apply (e.g., residential, unimproved parcels, sheds). Of the ordinances we reviewed, most cover any building, structure, or parcel. However, some have narrower applicability. For example, Wethersfield exempts from its blight ordinance buildings, structures, and parcels associated with active farms and certain historic barns. And Torrington exempts owner-occupied one- and two-family residences.

Definitions

Ordinances generally do not define the term "blight." Rather, they define "blighted premises" and related terms such as "abandoned property," "accessory structure," "community standard," "deterioration," "dwelling," "nuisance," "proximate property," "uninhabitable," and "vacant." (We found one municipality, Danbury, that additionally defines "blighted exterior premises.")

Most ordinances define "blighted premises" broadly and list several conditions that constitute blight (e.g., broken windows, overgrown grass, rodent infestations, attracting illegal activity, interfering with neighbors' use and enjoyment of their property). Some ordinances contain provisions applicable to their specific characteristics. For example, ordinances in comparatively rural communities often include language related to agriculture or natural landscapes (e.g., Coventry, which exempts premises in their natural field or wooded state from the definition of blighted premises).

Duty of Owner or Occupant

Generally, ordinances prohibit property owners from allowing, creating, maintaining, or causing to be created or maintained, blighted premises. Some ordinances, like those in Coventry and Wethersfield, make their provisions enforceable against a person who occupies a property (i.e., non-owner in possession), not only the owner. Still others differentiate between owners and non-owners in possession. In Middletown, for example, an owner is solely responsible for structural maintenance, but an owner, operator, or occupier is responsible for keeping a premises' exterior and structures free from abandoned vehicles, nuisances, garbage, refuse, infestations, and filth.

Complaints and Enforcement

Under most ordinances, anyone can file a complaint with the municipality alleging a blight ordinance violation. If a municipality determines that a violation exists after investigating a complaint, it must give written notice of the violation to the property owner and occupant and provide them with a reasonable opportunity to remediate the conditions before issuing a citation. Some ordinances specify how long an owner or occupant has to remediate blighted conditions (e.g., Hartford and Fairfield allow 30 days after receiving notice and Woodbridge allows 10 days). Others set the deadline on a case-by-case basis (e.g., Coventry, Wethersfield).

An owner or occupant who does not remediate the blighted conditions by the deadline may be cited and required to pay a fine for each day the violation continues. (In general, municipalities assess the maximum $100 fine authorized under CGS § 7-148(c)(7)(H)(xv).) In some municipalities, a property owner may be fined separately for each blighted condition (e.g, in Hartford, each blighted condition is subject to a $100 fine per day).

Most municipalities permit enforcement officials to cite offenders without a legislative body's approval. But in some municipalities, like Derby, enforcement officials create a list of blighted properties, which the legislative body must approve before such properties can be cited.

Under CGS § 7-148aa, any unpaid fine that a municipality imposes under a housing blight ordinance is a lien on the cited property. These liens take precedence over all other liens and other encumbrances, except taxes, filed after July 1, 1997.

Administrative Procedures

Municipalities issuing citations for housing blight ordinance violations must establish a hearing procedure for individuals to contest their liability for the fines (CGS §§ 7-148(c)(7)(H)(xv)). These procedures are generally uniform because they must comply with statutory requirements and due process principles. State law requires municipalities to designate one or more citation hearing officers, who cannot be police officers or individuals who issue citations. Municipalities must inform a cited individual, within 12 months of the expiration of the final period for uncontested fines, penalties, costs, or fees (fines) (1) of the allegations and the fine amount, (2) of his or her right to request a hearing, (3) that if no hearing is demanded, the assessment and judgment will be entered against him or her, and (4) that such judgment may issue without further notice (CGS § 7-152c).

If cited individuals neither pay the fine nor request a hearing, the municipality can enforce the citation in Superior Court. A person aggrieved by a hearing officer's decision may seek judicial review.

Municipal Remediation

State law authorizes municipalities to recover from a property owner the costs it incurs to remedy blight on a property (CGS §§ 47a-53 and 49-73b). This includes expenses for inspecting, repairing, demolishing, maintaining, removing, or disposing of any property in order to remedy the blight. In these situations, the municipality can place a lien on the owner's interest in the property, or, in some cases, the insurance policy covering the property.

Municipalities frequently cite in their ordinances their authority to remediate blighted conditions and recover the costs by placing a lien on the subject property (e.g., Coventry, Fairfield). In some municipalities, the legislative body or a designated committee must

approve remediation plans before they are implemented. For example, in Bristol and Middletown, a Code Enforcement Committee must approve an abatement plan before it can be implemented. The committee consists of the police chief, health director, fire marshals, public works director, and chief building official, or their designees; a code or zoning enforcement officer (or both); and two city residents (Middletown's committee also includes the general counsel).

ADDITIONAL PROVISIONS

Some of the ordinances we examined contained additional provisions beyond the core provisions. The three most common we found concern (1) remediation incentives, (2) special assessments, and (3) hardship waivers.

Remediation Incentives

Some ordinances provide financial incentives to purchasers who remediate blighted properties with outstanding fines or liens. Bridgeport, for example, allows fines and liens to be waived and released if the city determines, at the time of the property's sale, that the buyer can afford to, and intends to, immediately rehabilitate the property (if remediation does not occur, fines and liens may be reinstated). And in Danbury, purchasers can apply to the city for a waiver of fines and release of a lien if they agree to remediate the blight. Additionally, purchasers may be eligible for a fixed assessment for construction or improvements to blighted property.

Special Assessments

By law, a municipality that has adopted housing blight regulations can enact an ordinance to impose a special assessment on blighted housing to cover blight enforcement and remediation costs (CGS § 7-148ff). Relatively few municipalities have enacted such ordinances, but Bridgeport and Hartford have.

The law specifies the elements that must be included in such an ordinance and the steps the municipality must take before implementing the assessment. Specifically, these ordinances must:

1. specify the standards used to (a) impose a special assessment or (b) enter blighted property to remediate it;

2. state the assessment amount;

3. establish procedures for (a) notifying a property owner of the special assessment's imposition and (b) appealing such assessment; and

4. establish a board responsible for determining (a) when to impose a special assessment and (b) whether to authorize entry onto a blighted property.

Money received from a special assessment goes into a special fund or account dedicated for the municipality's expenses related to enforcing the blight regulations and state and local health, housing, and safety codes and regulations, including police expenses. Any unpaid assessment is a lien on the real estate, similar to a tax lien.

Hardship waivers

Some ordinances provide a hardship waiver for the elderly, individuals with disabilities, or low-income individuals (e.g., Bridgeport, Coventry, Woodbridge). For example, in Coventry, an enforcement officer may give a property owner additional time to correct a violation if the owner establishes good cause (e.g., an elderly individual unable to correct problem due to age; an individual with a disability unable to correct problem due to a medical condition; or a low income individual unable to correct problem due to cost). In deciding whether additional time is warranted, the officer must consider whether (1) other occupants are able to assist in correcting the problem and (2) the problem is so severe that additional time is unwarranted. The enforcement officer cannot provide additional time for a problem related to lawn or shrub maintenance, keeping grounds free of rubbish and debris, or a fire or safety hazard.

SELECT ORDINANCES: DEFINITION OF BLIGHT AND SCOPE

Table 1 shows how nine municipal blight ordinances define blighted premises. The table also covers the scope of these ordinances (i.e., the structures and property to which they apply).

It includes three ordinances from small municipalities (less than 30,000 residents), three from medium municipalities (30,000 to 100,000 residents), and three from large municipalities (over 100,000 residents). The selected ordinances represent rural (e.g., Coventry), suburban (e.g., Wethersfield), and urban (e.g., Waterbury) municipalities, as well as relatively high-income (e.g., Fairfield) and low-income (e.g., Hartford) municipalities.

Table 1: Select Ordinances

Municipality (Population)*	*Scope*	*Definition*
Woodbridge (Pt. II, Ch. 175) (8,990)	Applies to any building, structure, or any parcel of land Excludes blighted premises for which a special permit or site plan application for improvements to the premises is pending (for 90 days from date of application submittal)	"Blighted premises" is one in which any of the following conditions exists: • conditions posing a serious threat to the safety, health and/or general welfare of the community, as determined by the building official, zoning enforcement officer, or other official designated by the town • attracts illegal activity, as documented by police reports • is a fire hazard, as determined by the fire marshal or deputy fire marshal or documented by the fire department • is not being maintained or is becoming dilapidated as evidenced by existence of one or more of the following conditions: • missing, broken or boarded up windows or doors • collapsing or missing walls, roof, or floor • structurally faulty foundation • seriously damaged or missing siding • unrepaired fire or water damage • rodent harborage and/or infestation

Town of Middletown Planning Department

To: Burgess & Commissioners and Middletown Planning Commission

From: Cindy Unangst, Staff Planner

Date: 8/7/2018

RE: Monthly Planning Update - August

Major Subdivisions:

Middletown Glen - Preliminary plans signed – May 29, 2013
Improvement plans conditionally approved – October 16, 2013
FRO planting at Remsberg Park completed – February 2017
All plats recorded at the Courthouse – May 17, 2016 - March 16, 2018

Site Plans, Plats and Minor Subdivisions:

Cross Stone Commons – Final FRO Plan approved – May 19, 2014
Revised Site Plan conditionally approved – October 20, 2014
Improvement Plan mylars signed – November 6, 2015
Architectural renderings for Building #4 approved – March 19, 2018
Next step – submit architectural renderings for building #2 for review/approval

Fire Station – BOA approved height variance request - October 20, 2016
Revised Site Plan conditionally approved – October 17, 2016 (Plans expire 10/17/19)
Improvement Plans conditionally approved – December 19, 2016 (Plans expire 12/19/19)
Improvement Plan mylars signed – May 30, 2017

Franklin Commons - Improvement Plans approved – Sept. 21, 2015 **(Plans expire 9/21/2018)**
Improvement Plan mylars signed – January 4, 2016
Resubmitted site plan conditionally approved – May 21, 2018
BOA approved height variance request – July 12, 2018
Next step – submittal of PWAs for approval and apply for building and grading permits

Caroline's View/Horman Apartments- Site Plan approved – April 21, 2008 (no sunset provisions prior to November 14, 2010)
Improvement Plans conditionally approved – May 17, 2010 (no sunset provisions prior to 11/10)
Revised Improvement Plan mylars signed – July 21, 2017
Next step – submittal of PWAs for approval and apply for building and grading permits

Dowd Property – Forest Stand Delineation approved – April 16, 2018
Concept plan reviewed by PC – May 21, 2018
Next step – BOA review/approval of special exception for shopping center use

Jiffas – Site Improvement Plan conditionally approved – October 20, 2008 (no sunset provisions prior to November 14, 2010)

Forest Conservation Plan approved – October 20, 2008
Architectural plans approved by PC – March 16, 2015
BOA hearing for variance requests (approval received) – March 29, 2016 (**Expired 3/29/17**)
SWM plans submitted to SCD and Frederick County – December 5, 2016
Next step – apply for variance requests for siting of duplex building

Miller (Ingalls) – Revised Concept Plan reviewed by PC – September 16, 2013
Site plan conditionally approved by PC – July 20, 2015
Improvement plans conditionally approved by PC – June 19, 2017 (Plans expire June 29, 2020)
Improvement plan mylars signed – January 2, 2018

Richland Driving Range – Concept plan reviewed by PC – January 18, 2016
Revised Site Plan conditionally approved – January 15, 2018 (Plans expire January 15, 2021)
Next step – submittal of improvement plans for review and approval

School Complex roadway plans – Improvement plans and FCP plans reviewed and approved by Town Board – May 8, 2017 (informed in June 2017 that funding was not approved for project)
SWM plans re-submitted to Frederick County and SCD for review/approval – 8/3/17

St. Thomas More Academy Site Plan revision – submitted August 6, 2018

Annexations:

A.C. Jets Property- PC approval of annexation petition of 35.96 acres – December 21, 2009
Public hearing date - Monday, October 11, 2010
Annexation petition denied by Town Board – October 11, 2010

Admar Property – annexation petition sent to PC by Town Board – January 9, 2017
PC approval of consistency with zoning/comp plan – February 20, 2017
Public Hearing - April 5, 2018
Town Board passed annexation resolution – April 9, 2018

Text Amendments: Request to add "microbrewery" as a permitted use in the TC District
Request by ZA to make changes to Demolition ordinance & Storage Container regulations

Reports: 2017 Annual Planning Report – approved by PC – April 16, 2018
2017 Annual FRO Report – submitted to MD DNR – March 7, 2018

Grants: **MEA Smart Energy Communities grant application – award granted – May 2017**

Meetings: **Next Middletown Green Team Meeting – September 19, 2018**

Next Joint town board/planning commission workshop – November 5, 2018