




Planning Board Public Workshop - Application Review Processes

May 15, 2018



Middletown Rules and Regulations Regarding the Subdivision and Development of Land

- ▶ Article 1 – Authority & Purpose
- ▶ Article 2 – Definitions
- ▶ Article 3 – Conservation Development
- ▶ Article 4 – Procedures for Subdivision and Land Development Approval
- ▶ Article 5 – Required Minimum Standards of Design
- ▶ Article 6 – Specifications for Required Improvements
- ▶ Article 7 – Performance Guarantees
- ▶ Article 8 – Enforcement and Penalties
- ▶ Article 9 – Supplementary Regulations
- ▶ Article 10 – Development Plan Review
- ▶ Appendix A – Forms & Checklists
- ▶ Appendix B – Detail Drawings
- ▶ Appendix C – Conservation Development Design Process



Subdivisions – Administrative Subdivision

- ▶ Re-subdivision of existing lots which yields no additional lots for development, and involves no creation or extension of streets (§45-23-32)
- ▶ Certification of Completeness w/i 15 days (§45-23-37.c) (see application checklist)
- ▶ Review by Administrative Officer, who may refer plan to the Planning Board
- ▶ Decision by Administrative Officer within 15 days of certificate of completeness. If referred to the Planning Board, decision within 65 days (§45-23-37.d)
- ▶ Approval expires after 90 days (§45-23-37.g)



Minor Subdivisions

- ▶ Five or fewer lots (§45-23-32)
- ▶ Preliminary Plan
 - ▶ Certification of Completeness w/i 25 days, 15 days if no new road (§45-23-38.c)
 - ▶ Public hearing with abutter notice required only if road creation or extension proposed
 - ▶ Full engineered plans required (see submission checklist)
 - ▶ Decision within 95 days of certification of completeness, 65 days if no new road (§45-23-38.f)
 - ▶ State permits required
- ▶ Final Plan (see submission checklist)
 - ▶ Approval may be delegated to Administrative Officer or TRC (§45-23-38.h)
- ▶ Combined preliminary & final plan approval allowed unless zoning relief is needed
- ▶ Approval expires after 90 days (§45-23-38.i)



Major Subdivisions

- ▶ Plan not considered an administrative or minor subdivision (6+ lots) (§45-23-32)
- ▶ Pre-application meeting
- ▶ Master Plan
 - ▶ Certification of Completeness w/i 25 days (§45-23-40.b)
 - ▶ Only conceptual plans required (engineered, survey plans not required) (see submission checklist)
 - ▶ TRC review, and input from town and state agencies sought (state permits not required at this stage)
 - ▶ Public informational meeting with abutter notice required (§45-23-40.d)
 - ▶ Decision within 90 days of certification of completeness (§45-23-40.e)
 - ▶ Master plan vested for 2-years, with right to extend 2 years (§45-23-40.g)



Major Subdivisions (cont.)

▶ Preliminary Plan

- ▶ Certification of Completeness w/i 25 days (§45-23-41.b)
- ▶ Full engineered plans required (see submission checklist)
- ▶ TRC review, state permits required
- ▶ Public hearing with abutter notice required (§45-23-41.d)
- ▶ Decision within 90 days of certification of completeness (§45-23-41.f)
- ▶ Preliminary plan vested for 2 years, with right to extend 2 years (§45-23-41.h)

▶ Final Plan

- ▶ Certification of Completeness w/i 25 days (§45-23-43.b)
- ▶ Final engineered plans and legal docs required (see submission checklist)
- ▶ Decision within 45 days of certification of completeness (§45-23-43.c)
- ▶ Final plan approval valid for 1 year, with right to extend 1 year (§45-23-43.e)



Subdivisions – Required Findings of Fact

§45-23-60 RIGL

- ▶ (1) The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
- ▶ (2) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance;
- ▶ (3) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
- ▶ (4) The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans; and
- ▶ (5) All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.
- ▶ Except for administrative subdivisions, findings of fact must be supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted.



Conservation Subdivision/Development

- Applicability (Subdivision Regulations §301)
 - All major subdivision/land development project applications
 - Not required for:
 - 1. Minor subdivisions/land development projects
 - 2. Administrative subdivisions
 - 3. Subdivisions that create lots that are not for the purpose of present or future development, provided that the lots are preserved in perpetuity as open space.
 - Nothing shall prohibit exempt applicants from submitting a conservation plan for approval
 - The Planning Board has discretion to consider a conventional plan if one or more findings is made:
 - 1. Employing conservation development for the subject property would not offer significant public and/or environmental benefits compared to the conventional plan.
 - 2. Compared to the conventional plan, employing conservation development for the subject property would cause a nuisance to neighboring uses, and would be detrimental to the appropriate use of neighboring properties.
 - 3. Compared to the conventional plan, employing conservation development for the subject property will not result in the protection of the unique natural features of the land, provide environmental benefits, such as reduced storm water runoff, or reduce infrastructure construction and maintenance costs.
 - 4. The conservation plan would not create a neighborhood with direct visual and/or physical access to the protected open space.



Conservation Subdivision/Development

- Zoning Requirements (Zoning Ord. §602, §604, Article 19)
 - Single-family permitted in RM, R-10, R-20, R-30, R-40, R-60
 - Two-family permitted in RM, R-10, R-20, R-30, R-40, R-60, and by SUP in LB, OB
 - Multi-family (townhouse only) permitted in RM, R-10, R-20, R-30, and by SUP in LB, OB
 - Min. lot size $\frac{1}{2}$ to $\frac{1}{3}$ of underlying zoning, depending on availability of public water & sewer.
 - Density: “The maximum density for a conservation development (CSD) shall not exceed what could reasonably be expected to be developed on the site through conventional development.”
 - Yield Formula or Yield Plan must be used determine number of units
 - Open Space: 20% to 45% of developable land depending on zoning district. Must be a separate lot and protected with conservation easement
 - Allowed open spaces uses include natural areas, recreation, agriculture, landscaping



Conservation Subdivision/Development

- ▶ Subdivision Regulations (Article 3, §514, Appendix C)
 - ▶ Review Procedure in Article 4 is used
 - ▶ Use of the 10-step design process (Appendix C) must be demonstrated:
 - ▶ Step 1 - Analyze the Site
 - ▶ Step 2 - Evaluate Site Context
 - ▶ Step 3 - Designate Potential Conservation Areas
 - ▶ Step 4 - Determine Maximum Number of Units
 - ▶ Step 5 - Locate Development Areas and Explore Conceptual Alternatives
 - ▶ Step 6 - Locate the Building Sites
 - ▶ Step 7 - Lay Out Streets, Trails and Other Infrastructure
 - ▶ Step 8 – Design and Program Open Space
 - ▶ Step 9 - Draw in the Lot Lines
 - ▶ Step 10 - Establish Ownership and Management of Open Space and Other Community Elements



Conservation Subdivision/Development

- ▶ Subdivision Regulations (Article 3, §514, Appendix C)(cont.)
 - ▶ Section 304 describes options for determining number of units - formula or yield plan
 - ▶ Section 514.1 provides requirements for design and use of open space



Development Plan Review (DPR)

- ▶ Zoning Ordinance §305-§309 & Subdivision Regulations Article 10
 - ▶ Required for any use specified, and any use meeting one or more of the following:
 - ▶ New principal building
 - ▶ Addition of >1,000 sq.ft. to an existing building
 - ▶ New or expansion of parking surface >5,000 sq.ft.
 - ▶ Lesser modifications to existing buildings must comply with standards or request waivers
 - ▶ Single and Two-family dwellings exempt from DPR
- ▶ DPR Process
 - ▶ Pre-application meeting
 - ▶ Applications submitted to the ZBR
 - ▶ Certification of completeness by Zoning Official within 14 days and referred to the Planning Dept. by the Zoning Official for TRC and Planning Board Review
 - ▶ TRC review scheduled as soon as possible, abutters notified
 - ▶ Within 30 days of referral, TRC completes review and provides recommendation to the Planning Board



Development Plan Review (DPR)

- ▶ DPR process (cont.)
 - ▶ Planning Board decision within 60 days of referral by TRC
 - ▶ Public hearing w/abutter notice required only if waivers requested
 - ▶ For uses allowed by right, the Planning Board decision is final
 - ▶ For uses requiring zoning relief (SUP or variance), Planning Board review results in a recommendation to the ZBR
 - ▶ Review is based on the requirements of §521 of the subdivision and land development regulations
 - ▶ Waivers from the requirements may be granted subject to the standards of §908, including: "The only grounds for such waivers and/or modifications shall be where the literal enforcement of one (1) or more provisions of the regulations is impracticable and will exact undue hardship, because of the peculiar conditions pertaining to the land in question, or where such waiver and/or modification is in the best interest of good planning practice and/or design, as evidenced by consistency with the municipality's comprehensive plan and Zoning Ordinance."
 - ▶ DPR approval valid for 180 days.



Development Plan Review (DPR)

- ▶ Recommendations by the Technical Review Committee and decisions and recommendations by the Planning Board shall be based upon the specific standards as set forth in Article 5 of the Regulations.
- ▶ Findings:
 - ▶ The granting of approval will not result in conditions inimical to the public health, safety and welfare;
 - ▶ The granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district;
 - ▶ The plans for such project comply with all the requirements of this chapter and the Regulations, or that necessary waivers from the requirements of the Regulations have been granted;
 - ▶ The plans for such project are consistent with the Comprehensive Plan; and
 - ▶ Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval or recommendation.



Development Impact Review

- ▶ Required for major subdivisions and developments requiring DPR (Zoning Ordinance §310)
- ▶ Applicant required to submit report addressing impacts on:
 - ▶ Traffic and parking conditions on site and within the surrounding area;
 - ▶ Municipal utilities and services, including water supply, sewage disposal, storm drains, police, fire protection, emergency services, schools, and other town services;
 - ▶ The physical and ecological characteristics of the site and surrounding land, including wetlands, floodplain, vegetation, wildlife habitat, and other environmental conditions;
 - ▶ The character of the community, including scenic, historic and archaeological conditions; scale, placement, lighting, parking, and use of open space.
- ▶ Applicant responsible for cost of report and third-party review, if required



Zoning Relief – Special Use Permit

- ▶ Granted by the Zoning Board of Review, following public hearing
- ▶ Required for uses specified in the zoning ordinance use table, §602, and elsewhere in the zoning ordinance
- ▶ Planning Board review and recommendation to ZBR required for certain SUP applications:
 - ▶ Watershed Protection District (Article 11)
 - ▶ Motels & Hotels (Article 14)
 - ▶ Multi-family Dwellings (Article 15)
 - ▶ Shopping Centers (Article 18)
 - ▶ Residential Care & Assisted Living Facilities (Article 21)
 - ▶ Senior Independent Living Facilities (Article 22)
 - ▶ Mobile Home Parks (Article 23)
 - ▶ Transient Trailer Parks (Article 24)
 - ▶ Wireless Telecommunications Facilities (Article 25)



Zoning Relief – Special Use Permit

- ▶ Required Findings (§902):
 - ▶ It will not result in a significant diminution of property values in the surrounding area of the district;
 - ▶ It will not create a nuisance in the neighborhood;
 - ▶ It will be compatible with the Comprehensive Community Plan of the Town of Middletown;
 - ▶ That the granting of such special use permit will not be detrimental to or substantially or permanently injure the appropriate use of property in the surrounding area or district;
 - ▶ That the granting of such special use permit will not result in hazardous conditions or conditions inimical to the public health, safety or welfare.



Zoning Relief – Variance

- ▶ Granted by the Zoning Board of Review, following public hearing
- ▶ Planning Board typically does not review or comment on variance applications
- ▶ Standards for granting a variance (§903):
 - ▶ That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area and is not primarily due to a physical or economic disability of the applicant;
 - ▶ That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
 - ▶ That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan upon which this chapter is based; and
 - ▶ That the relief to be granted is the least relief necessary.



Zoning Relief – Variance

- ▶ Standards for granting a variance (cont.):
 - ▶ The Zoning Board of Review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
 - ▶ (a) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
 - ▶ (b) In granting a dimensional variance, that the hardship which will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is fronted shall not be grounds for relief.
 - ▶ (c) Dimensional variances granted in conjunction with a special use permit shall be supported by independent evidence on the record satisfying each of the requirements for a dimensional variance, and the Board shall vote on each dimensional variance before voting on the special use permit.