



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

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To: William J. Nash Jr., Chair
Planning Board members

From: Ron Wolanski, Town Planner

Date: June 5, 2024

Re: **Public Hearing** - Application of Seascape Holdings LLC for combined Preliminary and Final Plan approval for a Minor Land Development Project for the construction of a new 40' x 60.5' commercial building for office and storage use, with associated parking, other site improvements, and including requests for waivers from certain provisions of the commercial development design requirements of Section 521 of the Middletown Rules and Regulations Regarding the Subdivision and Development of Land, including sections 521.1.A; 521.1.B.3; 521.2.A.2; 521.2.B.1; 521.3.B; 521.3.D.1; 521.3.D.3; and 521.3.F.2. The application includes requests for variance from Section 603 of the Middletown Zoning Ordinance to allow an easterly side yard setback of 5.1' where 18.7' is required, and a northerly rear yard setback of 20.8' where 47.6' is required. Property located on 985 Aquidneck Ave., Tax Assessors Plat 113, Lot 208.

The applicant is proposing to construct a new 2,420 sq.ft. commercial building for office and storage use, including a new paved parking area, landscaping, and stormwater management system. There is also an existing commercial structure that faces Aquidneck Avenue on the property. The property is located on 985 Aquidneck Ave in the Limited Business, Traffic Sensitive (LBA) zoning district. Under the regulations passed during the 2023 RI General Assembly Session, the Planning Board must review land development project applications and the requested zoning relief under unified development review. The Planning Board's review will result in a decision to approve or deny the application, including zoning relief. Any appeal of the Planning Board's decision would be made directly to Superior Court.

Per the recently adopted zoning ordinance definition for lot line, the southerly property line along Trimble Rd. has been identified as the front lot line, making the northerly property line the rear, and the other two side property lines. The applicant's request for setback relief is based on this determination. Application materials can also be viewed online at:

<https://middletownri.com/504/Planning-Board-Meeting-Packets> Request for comments and plans were provided to the DPW director, Town Engineer, Building Official, Fire Department, Tree Commission, and the Roads & Utilities Committee. Any comments received will be provided as they become available.

TRC Review:

The Technical Review Committee (TRC) previously reviewed the prior application, which was withdrawn without prejudice due to the need to adopt an amendment to the zoning ordinance definition for lot line. The recommended condition resulting from that prior review is provided below for your reference. Note that under the new application review procedures that implement

recent changes in state law, applications for minor land development projects and minor subdivisions will no longer be referred to the TRC for review. We will, however, continue to invite comments on these applications from applicable town departments.

Prior TRC recommended condition of approval:

1. The proposed new building shall be served by a separate sewer connection directly to the public sewer main located in Trimble Rd. The existing abandoned sewer lateral located on the property shall be capped as part of the construction process, subject to the approval of the Director of Public Works.

Requested zoning relief:

The applicant is requesting the following relief from provisions of the Middletown Zoning Ordinance:

1. Variance from Zoning Ordinance §603 to allow an easterly side setback of 5.1 feet where 18.7 feet is required and a northerly rear setback of 20.8 feet where 47.6 feet is required.

Required findings for variance:

- (1) 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 due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16) RIGL;
- (2) That the hardship is not the result of any prior action of the applicant; and
- (3) 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.
- (4) The Zoning Board of Review/Planning Board 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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted 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.

Requested waivers:

Based on the plan set it appears that the applicant will require the following waivers from the commercial development design standards of section 521 of the subdivision and land development regulations, or must provide confirmation that the project is in compliance. Per section 1009 of the Regulations.

1. **Section 521.1.A and 521.1.B.3** – Building located to create and provide a safe, walking environment and provide pedestrian access, walkways, and crosswalks. **No pedestrian access is proposed.**
2. **Section 521.2.A.2** – No unbroken plan of a wall exceeds forty feet without a minimum 4” wide architectural design feature on the building façade. **The easterly building elevation exceeds forty feet in length with no break in plane.**
3. **Section 521.2.B.1** – Windows occupy between 20% and 60% of façade visible from the public way. **The westerly, northerly, and easterly facades that are visible from Aquidneck Ave and Trimble Road do not meet this requirement.**
4. **Section 521.3.B** – Planted landscaping occupies a minimum of 25% of the project area. **Provided landscaping does not meet this requirement.**
5. **Section 521.3.D.1** – A landscaped buffer at least 10” is provided along all property lines. **Buffer along easterly property line is only 5” wide.**
6. **Section 521.3.D.3** – A landscaped buffer at least 5’ wide shall be provided between buildings and parking lots/driveways. The buffer shall defined by curbing. **No buffer is provided between the front of the building and parking lot.**
7. **Section 521.3.F.2** – Require a minimum of one parking lot tree for every five parking spaces. **Not provided.**

Required findings for approving a land development project (Section 404 of the development regulations):

- A. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
- B. The proposed development is in compliance with the standards and provisions of the Town Zoning Ordinance;
- C. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
- D. The subdivision, as proposed, will not result in the creation of individual lots with such 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 such 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
- E. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.

Cc: Applicant