



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

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To: Arthur S. Weber, Jr., Vice Chair
Planning Board members

From: Ron Wolanski, Town Planner

Date: December 4, 2024

Re: **Public Hearing** – Application of Seascope Holdings, LLC for combined preliminary and final plan approval for a minor land development project for construction of a new 2,442 square foot commercial building. The application includes 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 521.2.D.2 regarding roof pitch; 521.3.D.1 regarding landscaped buffer along property line; and 521.3.D.3 regarding landscaped buffer between parking lot and building. Requests for variance include from section 603 of the Middletown zoning ordinance, Town Code Chapter 152 to allow a side setback (easterly property line) of 5.1 feet where 18.7 feet is required, and a rear setback (northerly property line) of 43.9 feet where 47.6 feet is required. Property located at 985 Aquidneck Ave., Tax Assessors Plat 113, Lot 208.

The applicant is proposing to construct a new 2,442 sq.ft. commercial building, including a new paved parking area, plantings, and stormwater management system. There is also an existing commercial structure that faces Aquidneck Avenue on the property. The property is located at 985 Aquidneck Ave in the Limited Business, Traffic Sensitive (LBA) zoning district. The applicant is requesting relief from the Middletown zoning ordinance for rear and side building setbacks, as well as waivers from some of the Town's commercial development design standards. These requests are discussed below. 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. State law requires action on a minor land development project preliminary plan application within 95 days of an application being certified complete. This application was certified complete on November 18, 2024; therefore, the Planning Board must take action on the application by February 21, 2025.

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) reviewed the application during its November 27, 2024 meeting. Following review, the committee voted unanimously to forward a positive

recommendation to the Planning Board subject to the following recommended conditions of approval:

1. The applicant's engineer must confirm that the bottom of the proposed sand filter which is part of the stormwater management system will not intercept the ground water table.
2. The sanitary sewer stub for the existing building which is proposed to be abandoned must be capped at the building foundation and inspected, subject to approval of the DPW director.

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.
2. Variance from Zoning Ordinance §603 to allow a northerly rear setback of 43.9 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:

The applicant is requesting the following waivers from the commercial development design standards of section 521 of the subdivision and land development regulations.

1. **521.2.D.2** – Minimum roof pitch must be 4:12. **The applicant proposes a sloped roof with a 3:12 pitch.**
2. **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.**
3. **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.**

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