

# TOWNSHIP OF MIDDLETOWN

DELAWARE COUNTY, PENNSYLVANIA

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27 N. PENNELL ROAD  
P.O. BOX 157, LIMA, PA 19037-0157

## AGENDA FOR THE REGULAR MEETING OF THE PLANNING COMMISSION

Tuesday, June 9, 2020 AT 7:30 PM VIA ZOOM\*

\*For the meeting of the Planning Commission to be held at 7:30 PM on Tuesday, June 9, 2020, online as a virtual meeting during the COVID-19 Restrictions.

### Public Access Information:

Zoom Meeting Link: <https://us02web.zoom.us/j/88418840980>

Zoom Meeting ID: 884 1884 0980

Dial by Your Location: +1 646 876 9923 US (New York)

**Planning Commission Members:** Mark Bradson, Dave Decker, Alison Hassenplug, Jeff Koenig, William Moran, Greg Reitze, Wayne Wilson

**Township Solicitor:** Donald Petrosa, Esq.  
**Township Engineer:** Eric Janetka, Kelly & Close  
**Planning Director:** Meredith Merino  
**Planner:** Jaime Jilozian

### A. CALL TO ORDER

B. APPROVAL OF MINUTES May Minutes

### C. NEW BUSINESS

#### 1. Zoning Ordinance Amendment-Interior/Flag Lots

An ordinance amending the Zoning code of Middletown Township by removing the existing definition of interior lot, adding new definitions for flag lot, flag front line, interior lot, and parent tract; and deleting and replacing the section pertaining to common driveways for interior lots.

**REINTRODUCED on May 11, 2020**



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Meredith Merino  
Director of Planning & Development

**TOWNSHIP OF MIDDLETOWN  
PLANNING COMMISSION MEETING**

May 12, 2020

Held virtually via Zoom

Present: Dave Decker, Alison Hassenplug, William Moran, Greg Reitze, Jeffrey Koenig, Mark Bradson

Donald Petrosa, Solicitor; Eric Janetka, Engineer; Jaime Jilozian, Planner; Meredith Merino, Director of Planning & Development

A. Call to Order

Chairman Mr. Moran called the virtual meeting to order at 7:30 PM.

B. Approval of Minutes-March 10, 2020

Mr. Moran brought forth the draft March meeting minutes, and noted two amendments that he requested be added to the minutes. Mr. Decker motioned to approve the minutes as amended; Mr. Bradson seconded the motion and the Commission approved the minutes with a vote of 5-0.

C. Old Business

1. *Preliminary/Final Land Development, Glenwood Elementary School for the property located at 122 S Pennell Road, zoned R-2. Applicant is proposing to construct an additional 48 paved parking spaces at Glenwood Elementary School.*

The Applicant, Rose Tree Media School District (RTMSD) was represented by Tom Kelly, Solicitor for the School District. Mr. Kelly provided a background on Glenwood Elementary School, explaining that it was built in 1966-67. In 1993, a Land Development plan was approved that added 60 parking spaces at the rear of the property, along with the development of an access road onto Lenni Road. PennDOT issued a letter dated April 30, 1993 which stated that the construction of the access was acceptable, and on May 6, 1993 an HOP permit was issued to Rose Tree Media School District for the use of that access drive. In July 1993, the Township approved the Land Development plan. In 1999, the School District came back with another plan for a 2<sup>nd</sup> access on Pennell Road to be used exclusively for buses. Only buses were to use the driveway one way in & back out via the access to Lenni Road. Between 1993-2005, the School District maintained the Lenni Road access drive, and in 2005 the drive was resurfaced by the School District.

Mr. Kelly explained that he was in receipt of a memo today from Mr. and Mrs. Vieyra, of 225 Lenni Road. He went on to say that when the Vieyras were in the process of purchasing their property in 2016, which shares access to the driveway in question, there was no written agreement on the maintenance and responsibility of the driveway. Mr. Kelly presented a letter he had written on behalf of the School District to Mr. William Maffucci, Esquire, attorney for the Vieyras, dated November 18, 2016. The letter stated an agreement between the Vieyras and School District that created an indemnification for the shared use of the driveway, which the Vieyras both signed. The indemnifications given to the Vieyras from the School

District was completed so that the Vieyras could go to settlement on their property and satisfy the title insurance requirements.

Mr. Kelly then brought up a second issue that Mr. and Mrs. Vieyra were concerned about, which was the restoration of the gate at the rear parking lot. Mr. Kelly explained that the 2-armed gate had been installed after September 11, but over the years the gate has fallen into disrepair and has not been used. The District is looking into the replacement of the gate.

Mr. Decker asked for Mr. Kelly to further explain the ownership of the access road, which he stated that the School District filed an HOP with PennDOT for the use of the driveway. The abutting property owners on either side of the driveway own to the centerline, and the School District has a prescriptive easement to use it.

Gus Houtman, P.E. of G. D. Houtman & Son, Inc., explained that the Vieyras had voiced concern in their letter dated May 11, 2020 about three main points regarding the development of the proposed 48-space parking lot. Regarding the second point of restoration of the gate, Mr. Houtman stated that the School District would assent to the re-installation of the gate, as long as the Township Fire Marshal is agreeable to having a locked gate at the access. The gate would be opened on Monday morning, then closed on Friday afternoon each week.

Councilwoman Bibiana Dussling stated that she had joined the meeting on behalf of her constituents, Mr. and Mrs. Vieyra, who could not attend the meeting due to the birth of their grandchild. Ms. Dussling stated that the Vieyras' concerns for the gate was for overnight hours, including weeknights.

Mr. Houtman then explained one of the other concerns of the Vieyras was with the design layout, and the designation of the driveway as a low-volume driveway. He went on to say that a low-volume driveway is categorized per PennDOT standards as having between 25-750 vehicle trips per day. Even with the proposal to expand to 107 spaces, the driveway would never see the maximum number of daily trips. He stated that providing more parking does not equate to an increase in traffic. The overflow parking is only to be used for special events that parents and guests would attend at the school.

Ms. Dussling added that additional capacity for parking is needed for the current school population.

Mr. Petrosa asked Mr. Houtman whether there would be grading work done and if it would have an impact on egress for children. Mr. Houtman explained that the existing wall retains earth. The elevation will be raised 12-15 inches to accommodate the parking lot, and there will still be room for egress up-slope past the wall and onto the parking area.

Ms. Dussling asked if the intent of the parking lot were to be for multi-use, and whether it would be gated off and used for additional playing surface. Mr. Houtman explained that the parking area will be curbed and runoff will be cutoff. There are inlets on the low side of the lot which will be piped to the existing

basin behind the school. He was not aware of a secondary intent to utilize the parking area for additional play space.

Mr. Kelly summarized the position of the School district with respect to the access road and current parking lot application. He stated that the school property fronts on the access road and has rights to use it, as it has for the past 27 years. The School District is prepared to continue use as it has, has a vested interest in maintaining the driveway, and showed a good faith act in helping the Vieyras in working out any issues with their title insurance prior to their property purchase in 2016.

Mr. Houtman added that a PennDOT permit was granted for one-way bus traffic off of Pennell Road. It is the School District policy that one-way lanes be utilized for student drop-off. The layout mimics other lot layouts in the school district.

After no further discussion, Mr. Decker made a motion to recommend approval, subject to the conditions that the rear gate be repaired, that the parking spaces nearest the playground have guiderails installed, and subject to coordination with the Township Engineer on review of final plan revisions. Mark Bradson seconded the motion, which carried with a vote of 5 in favor, with one abstention by Mr. Koenig, who was a recent member of the School Board.

Mr. Moran adjourned the meeting at 8:30 PM.

Respectfully submitted,

Meredith Merino

**COUNCIL MEMBERS**

**AT LARGE**  
Kathleen O'Connell-Bell  
Norman C. Shropshire  
Mark Kirchgasser

**FIRST DISTRICT**  
Susan Powell

**SECOND DISTRICT**  
Walter (Bok) Read

**THIRD DISTRICT**  
Bibianna Dussling

**FOURTH DISTRICT**  
Stephen Byrne

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**MANAGER**  
Andrew S. Haines

**ENGINEER**  
Kelly & Close Engineers

**SOLICITOR**  
Joseph A. Damico, Jr., ESQ

**June 2, 2020**

Mr. Bill Moran, Chairman  
Middletown Township Planning Commission  
and Planning Commission Members

Re: Ordinance Amending Chapter 275: Zoning  
Terminology and General Provisions for Flag Lots and Interior Lots

Dear Commission Members:

Pursuant to requirements of the Municipalities Planning Code and Act 247, attached is copy of an ordinance introduced by formal Council action at their meeting of May 11, 2020. A Public Hearing on this proposed zoning amendment is scheduled for July 13, 2020 at 7:00 PM.

The proposed ordinance provides for an amendment of Chapter 275, "Zoning" Terminology, by deleting the existing definition of interior lot and adding new definitions for flag front line, flag lot, interior lot, existing interior lot and parent tract; and General Provisions, by deleting Section 275-199.D(1)-(4) for common driveways and replacing it with the proposed Section 275-199.D (1)-(4) relating to existing interior lots and adding Section 275-199. E (1)-(7) relating to flag lots and interior lots.

The ordinance is being submitted for the Commission's review and formal comment. If there are any questions relative to the attached ordinance, please contact my office for further information.

Sincerely,

Jaime Jilozian  
Planner

Enc.- Ordinance 817

MIDDLETOWN TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE NO. 817

AN ORDINANCE AMENDING THE MIDDLETOWN TOWNSHIP CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY, PENNSYLVANIA, CHAPTER 275, ZONING, ARTICLE II TERMINOLOGY, BY DELETING THE EXISTING DEFINITION OF INTERIOR LOT AND ADDING NEW DEFINITIONS FOR FLAG FRONT LINE, FLAG LOT, INTERIOR LOT, EXISTING INTERIOR LOT AND PARENT TRACT; AND AMENDING CHAPTER 275, ZONING, ARTICLE XXXIII GENERAL PROVISIONS BY DELETING SECTION 275-199.D(1), (2), (3) AND (4) RELATING TO COMMON DRIVEWAYS FOR INTERIOR LOTS IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 275-199.D (1), (2), (3), (4) RELATING TO EXISTING INTERIOR LOTS AND SECTION 275-199.E (1), (2), (3), (4), (5), (6) and (7) RELATING TO REGULATIONS FOR FLAG LOTS AND INTERIOR LOTS.

The Council of the Township of Middletown, Delaware County, Pennsylvania, hereby ENACTS AND ORDAINS the following amendments to the Code of Ordinances of the Township of Middletown:

**Section 1.**

The Middletown Township Code of Ordinances, Chapter 275, Zoning, Article II Terminology is hereby amended by deleting the existing definition of Lot, Interior, and adding definitions for the following terms:

Flag Front Line: A line which is parallel to the public street from which a flag lot gains access; extends the full width of such flag lot; and intersects the point nearest such public street at which the flag lot first achieves a width equal to 75% of the applicable lot width requirement.

Lot, Flag: A lot which is connected to a street by an access strip of required minimum width at the street line per the applicable zoning district. Minimum lot area and other dimensional requirements shall be met on that portion of the lot exclusive of the minimum access strip.

Lot, Existing Interior: A lot existing as of the date of this Ordinance with an existing separate Tax Folio Number, which meets all of the R-1 or R-1A Residential District Zoning regulations except the minimum lot width at the street line.

Lot, Interior: A lot created through the subdivision process, after the date of this Ordinance, which does not front on a street and has access to a street only by way of an easement or right-of-way.

Parent Tract: the area of land from which parcels are subdivided.

**Section 2.**

The Middletown Township Code of Ordinances, Chapter 275, Zoning is hereby amended by deleting the existing Section 275-199.D (1), (2), (3) and (4) in its entirety and replacing it with 275-199.D and 275-199.E as follows:

D. The following regulations shall apply to Existing Interior Lots:

For one or two Existing Interior Lots, a common driveway may be provided subject to compliance with the following requirements:

(1) A private driveway providing public street access to one or two Existing Interior Lots shall have a recorded easement right-of-way of 50 feet in width and a paved cartway of not less than 16 feet in width. The paved cartway shall have a minimum setback of 50 feet from any existing dwelling. The fifty-foot-wide easement shall be unobstructed by any building.

(2) A private driveway providing access to a public street for the one or two Existing Interior Lots may also provide access for one lot which must have a minimum lot width at the street line as specified for the residence zoning district in which the lot is located.

(3) In order to protect the public health, safety and general welfare of persons residing in dwellings on lots adjacent to a private driveway providing public street access to an Existing Interior Lot or lots, buffer planting strips shall be provided within the easement area at appropriate locations to prevent the headlights of motor vehicles using the private driveway from shining directly on any dwelling or dwellings on any adjacent lots or lots. The buffer planting area shall be in accordance with Article XXXIV.

(4) If an Existing Interior Lot exceeds the Lot Area required for the residence zoning district in which the lot is located, the Existing Interior Lot may not be further subdivided to create any additional Interior Lots and the owner of the Existing Interior Lot shall record a restriction against further subdivision of the Existing Interior Lot.

E. The following regulations shall apply to Flag Lots and Interior Lots:

(1) Flag lots and Interior Lots shall be permitted only within the R-1 and R-1A residential districts and shall be subject to all regulations of this section and the applicable district regulations.

(2) Flag lots and Interior Lots shall be permitted within a subdivision when no other reasonable alternative can be achieved.

(3) No more than one Flag Lot and one Interior Lot may be created from a Parent Tract.

(4) The access strip serving any Flag Lot shall have a minimum width of 50 feet at the street line and shall not exceed 300 feet in length, as measured from the street right-of-way to the Flag Front Line.

(5) The Flag Lot access strip shall be excluded from the required minimum lot area (net lot area) calculation imposed by the district regulations.

(6) The private driveway providing access to a public street for one Flag Lot may also share a driveway with any lot which fronts completely on the street. The recorded easement shall not be less than 25 feet in width and a paved cartway of not less than 12 feet in width. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The 25-foot-wide easement shall be unobstructed by any building or structure.

(7) If a subdivision of a Parent Tract results in the creation of an Interior Lot, the access easement to the Interior Lot shall be 50 feet in width and must have a paved cartway which is constructed in accordance with the design standards for streets as set forth in the Township Subdivision and Land Development Ordinance. The paved cartway shall have a minimum setback of 25 feet from any existing dwelling and be a minimum of four feet from a property line. The 50-foot-wide easement shall be unobstructed by any building or structure.

**Section 3.**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held invalid or unconstitutional by any courts of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not render this Ordinance invalid.

**Section 4.**

All Ordinances or parts of Ordinances inconsistent herewith are hereby superseded to the extent of any inconsistency with any provision contained herein.

**Section 5.**

This Ordinance shall be effective thirty-one (31) days after its enactment.

**ENACTED AND ORDAINED** by the Council of Middletown Township, Delaware County, Pennsylvania, this 13<sup>th</sup> day of July 2020 at a regularly scheduled public meeting.

TOWNSHIP OF MIDDLETOWN

**ATTEST:**

**TOWNSHIP COUNCIL**

Signature: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Mark Kirchgasser

Title:

Chairman of Council