

MEMORANDUM

FROM: OFFICE OF THE CITY ATTORNEY
MIDDLETOWN, CONNECTICUT 06457

TO: Stephen T. Gionfriddo, Chairman of Planning and Zoning Commission
George A. Reif, Director of Planning and Zoning

DATE: August 25, 1987

RE: Effect of Court's Decision in the Morrow Appeals on Zoning Amendments -
Change from an I-1 Zone to R-1 Zone on Johnson Street and T. D. to an R-1
Zone on Wall Street and Walnut Street

In my memorandum dated August 12, 1987, I indicated that the two zone changes, one which was approved on May 1, 1986, changing an I-1 zone to an R-1 zone on Johnson Street and one approved on June 10, 1987, changing a T. D. to an R-1 zone on Wall Street and Walnut Street, were still under review.

Having carefully reviewed the aforementioned two zone changes, it is the opinion of this office that those two zone changes are also null and void under the decision issued under the Morrow appeals cases.

Specifically, the R-1 zone involved was part of the hierarchy of zones, that was declared null and void in the Morrow decision. Although there now exists an R-1 zone, it is not the same type of R-1 zone that existed under the hierarchy of zones. Accordingly, the two zone changes, as noted above, are found to be null and void.



Ralph E. Wilson
City Attorney

REW/es

cc: Sebastian J. Garafalo, Mayor
Councilman Steven J. Leinwand, Vice Chairman, Planning & Zoning Commission
Stephen Gadomski, Planning & Zoning Commission
Ann Loffredo, Planning & Zoning Commission
Councilman William A. Pillarella, Planning & Zoning Commission
Sebastian Passanesi, Planning & Zoning Commission
John Robinson, Planning & Zoning Commission
Salvatore Fazzino, Director of Public Works
Richard Thompson, Alternate Member, Planning & Zoning Commission
Christine Lindquist, Alternate Member, Planning & Zoning Commission
Councilman Francis Patnaude, Alternate Member, Planning & Zoning
Commission
Councilman Gerard M. Roccapiore, Alternate Member, Planning & Zoning
Commission

MEMORANDUM

FROM: OFFICE OF THE CITY ATTORNEY
MIDDLETOWN, CONNECTICUT 06457

TO: Councilman Stephen T. Gionfriddo, Chairman
Planning and Zoning Commission

DATE: August 26, 1987

RE: Request for Legal Opinion Bysiewicz Subdivision, Ridgewood Road

ISSUE:

With respect to the Bysiewicz subdivision (Ridgewood Road) - does the rear lot comply with Middletown Zoning Code Section 44.08.27 E?

DISCUSSION:

Section 44.08.27 E of the Middletown Zoning Code provides that the rear lot "Not be separated from a City street by more than the depth of one front lot which is not less than the size of a lot required by the Code."

"Front Lot" has not been defined in the Zoning Code but the definition of "LOT" in section 16.12.02 provides, in pertinent part, that a lot "shall have its principal frontage on a public street or public way."

There is no question that Lots #1, #3 and #4 front on Ridgewood Road and are "not less than the size of a lot required by the Code." (Section 44.08.27 E)

It is clearly evident that the rear lots #2 and #5 as indicated on the map entitled "PRELIMINARY SUBDIVISION PLAN BYSIEWICZ SUBDIVISION RIDGEWOOD ROAD MIDDLETOWN, CT" are only separated from Ridgewood Road, a City street, by the depth of one front lot.

The language of Section 44.08.27 E of the Middletown Zoning Code does not limit the number of front lots on which the rear lot shares a common boundary nor does it indicate which front lot's depth shall control in determining the separation from a City street.

It is my opinion that the controlling front lots for purposes of interpreting 44.08.27 E are: as to rear lot number 5, front lot number 4; as to rear lot number 2, front lot number 1.

Therefore both rear lots do comply with Middletown Zoning Code Section 44.08.27 E.



Ralph E. Wilson
City Attorney

REW/es

REQUEST FOR OPINION, ADVICE OR OTHER LEGAL SERVICE

(Submit to Mayor in Duplicate)

RECEIVED
27 AUG 13 PM 3:34

TO: MAYOR'S OFFICE

FROM:

Stephen Giannicco, Chairman P 3

CITY OF MIDDLETOWN
MAYOR'S OFFICE

SUBJECT:

Interpretation of zoning Reg

FACTS:

(In brief Statement tell WHO, WHAT, WHEN, WHERE, WHY & HOW.)

Question on subdivision as to whether
staff interpretation or interpretation of
developers attorney is correct.

RECEIVED

AUG 14 1987

CITY ATTORNEY
MIDDLETOWN, CT.

LAW:

(Cite appropriate ORDINANCE, REGULATION, STATUTE, OR CASE LAW that you think applies to this Question.)

Zoning Code 44.05.27e

QUESTION:

(What, in your own words is the precise question you wish to have answered?)

With respect to Bypassway subdivision - does rear lot comply with above referenced section? (Richwood Rd)

8-25-87

Yes

ESTIMATE OF PRIORITY:

Check one.

EMERGENCY

STANDBY FOR FUTURE ACTION

X URGENT (Needly 8/26)

X APPLICANT SHOULD KNOW FOR FUTURE ACTION

Date:

8/13/87

Signed:

Stephen Giannicco

2.4
587-21

REQUEST FOR WAIVER OF SUBDIVISION REGULATIONS

This waiver request is in reference to the Bysiewicz Subdivision on Ridgewood Road, a 6± acre parcel presently zoned R-2. A preliminary subdivision plan accompanies this request and will be submitted on this date.

As shown on the plans, the parcel has been divided into 5 lots. Two of these lots are rear lots. With this layout we are in noncompliance with two regulations. Subdivision Regulation 04.02.01 states that rear lots "may be proposed as part of a subdivision proposal at a ratio of one for each 4 street lots". Our plan show a ratio of 2.3. Secondly, Zoning Code 44.08.27 part E states that a rear lot shall "not be separated from a City Street by more than the depth of one front lot", or 150' in an R-2 zone. We would like to request a waiver of these two regulations. We make request for that second waiver not because we believe that it is necessary but only because your staff is of the opinion that a waiver is necessary.

In developing the site we want to:

1. maintain the character of the neighborhood with larger than standard lots with houses set back from the road,
2. leave the existing residence and its grounds intact, and
3. maintain the existing pond in one ownership.

We believe such development does not have an adverse effect upon surrounding properties and is not in conflict with the interest of the Zoning Regulations or the Plan of Development.

Date July 20, 1987

Thaddeus P. Bysiewicz
and
Greiner Engineer

By Dean A. Thomasson
Dean A. Thomasson