

Fee \$160.00
(Variance)

ZBA2021-4

ZBA1
CITY OF MIDDLETOWN
ZONING BOARD OF APPEALS
MUNICIPAL BUILDING, DEKOVEN DRIVE, MIDDLETOWN, CT 06457
APPLICATION FOR VARIANCE FROM THE MIDDLETOWN ZONING REGULATIONS

OWNER The Middletown Housing Partnership Trust, Inc. DATE 3/23/21
ADDRESS 42 Military Road, Middletown, CT 06457
APPLICANT David E. Rosenberg, Esq. ADDRESS 60 Washington Ave #104, Hamden, CT 06518
(if other than owner)

SUBJECT PROPERTY Military Road (entire subsurface land area) ZONE R-15
(Street Address)

OWNER'S DEED REFERENCE: VOL. 982 PAGE 144 Attach a legal description of the property

The undersigned hereby applies for a Variance of Section(s) 21-00
This application relates to: USE AREA YARDS BUILDING LINE
 SIGNS A PROPOSED BUILDING AN EXISTING BUILDING OTHER (Check proper one)

If work constitutes an alteration, conversion or extension to an existing building and/or non-conforming building or use, describe briefly: The Owner seeks a variance of existing setback and boundary line for 16 existing lots with existing buildings. The Owner owns the subsurface land in fee simple and each occupant has an existing ground lease for their aboveground improvements.

Has any previous application been filed in connection with this property? No
Is hardship claimed? Yes If what is the specific hardship? The purpose of the variance is to facilitate the conveyance of the subsurface ground to each existing homeowner, who should not be prejudiced by the transfer of the land alone.

NOTICE: The clerk cannot accept an application unless signed, all required information is provided, all required items attached and fee paid. The following must be attached:

- (a) A legal description of the subject property; and (b) A survey of the subject property prepared by a Connecticut registered land surveyor with the surveyor and a certification that it is substantially correct to the degree of accuracy shown thereon, showing the boundaries of the subject property, existing and proposed structures and other improvements and all zoning lines pertinent to all boundaries.

Attach additional sheets, if necessary.

A Certification of Grant of Variance with a legal description of the property attached must be recorded in the Middletown Land Records at the owner's expense before the variance can be effective.

The undersigned hereby represents that all the statements and the statements contained in any items attached or submitted herewith are true to the best of my knowledge and belief.

Delores Santoro
Signature of Owner

[Signature]
Signature of Applicant if other than owner.
State interest in premises (Lessee, etc.)

Telephone No. (860) 324-2611

Telephone No. (203) 288-1333

ZBA Form #1 - (To be used on and after January 1, 2001)

Fee 3/2001

CH#306 \$160.00

DEPT. PLANNING & ZONING
21 MAR 29 10:08:39

QUITCLAIM DEED

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THIS QUITCLAIM DEED made and entered into this 25TH day of JUNE 1992, by and between the UNITED STATES OF AMERICA, Washington, DC, acting by and through the Secretary of the Army, acting under and pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended and the delegation of authority to the Secretary of Defense from the Administrator of General Services Administration of 1 March 1989 pursuant to Title II, Section 204 of Public Law 100-526, Defense Authorization Amendments and Base Closure and Realignment Act, and the re-delegation of authority from the Secretary of Defense to the Secretary of the Army of 10 May 1989, ("Grantor"), and The Middletown Housing Partnership Trust, Incorporated whose address is: C/O Legal Services, 245 Main Street, Middletown, CT 06457, ("Grantee").

THAT THE GRANTOR, in consideration of the sum of one million one hundred ninety thousand dollars (\$1,190,000.00), lawful money of the United States, and other valuable consideration, the receipt of one third cash in the amount of three hundred ninety six thousand six hundred sixty six 66/100 dollars (\$396,666.66) and a mortgage for the remaining two-thirds in the amount of seven hundred ninety three thousand three hundred thirty three 34/100 dollars (\$793,333.34) to be paid within one hundred eighty (180) days, the sufficiency of the total being hereby acknowledged, transferred by Grantee to Grantor at or before the sealing and delivery of this indenture, by these presents does grant, with quitclaim covenants, unto the Grantee, its successors, and assigns, all of its right, title and interest whatsoever, both in law, and in equity, without representation or warranty, express or implied, that certain real estate together with improvements thereon, known as the Hartford Defense Area, Nike Housing Site, Middletown, Connecticut and further described as follows:

ALL THAT tract or parcel of land situate in the Town of Middletown, County of Middlesex, State of Connecticut, and more particularly described as follows:

Beginning at an iron pipe on the northerly side line of Westfield Street in the Town of Middletown, County of Middlesex, State of Connecticut, being more particularly bounded and described as follows:

1. Northerly by land now or formerly of Ray Barker 150 feet to an iron pipe being the northwesterly corner of the Ray Barker property.
2. Thence turning an interior angle of 187°-44'-58" and running through land of the owner 1,061.21 feet, more or less, to a corner in the boundary line between the owner and land now or formerly of Muriel M. Hubbard which point is south 05°-25'-00" west 50 feet of another corner in the boundary line between the owner and said Muriel M. Hubbard as shown on a map of a part of Clara Kennedy property in Middletown, Connecticut, dated February 1922, made by L.F. Quirk, C.E. and filed in the Middletown Clerk's Office.

"No Conveyance Tax collected. Exempt"

Anthony Sobona

Town Clerk of Middletown"

3. Thence turning an interior angle and running south $80^{\circ}-02'-47''$ westerly 239.40 feet by a fence and land of said Muriel H. Hubbard to a point.
 4. Thence turning an interior angle of $147^{\circ}-56'-29''$ and running southwesterly by a fence and land of said Hubbard 96.00 feet, more or less, to a point.
 5. Thence turning an interior angle of $128^{\circ}-55'-38''$ and running southerly by a fence and land of said Hubbard 1,102.72 feet to a point on the northerly side line of Westfield Street.
 6. Thence turning an interior angle of $93^{\circ}-50'-27''$ and running easterly by the northerly side line of the said Westfield Street 267.32 feet to the point of beginning.
- Containing 7.50 acres, of land, more or less.

SUBJECT, HOWEVER, to all existing easements for public roads and highways, public utilities, railroads and pipelines.

The fee area being the same property acquired by condemnation proceedings filed February 28, 1957, in the United States District Court all in and for the State of Connecticut, Civil No. 6573, from the following owner:

Tract No. A-110 Margaret A. Lynch

Together with all buildings and improvements located thereon, and all tenements, hereditaments, appurtenances and improvements thereunto belonging, or in any wise appertaining.

The above described property is conveyed "As Is" and "Where Is" without representation, warranty and guaranty as to quantity, quality, character, condition, size or kind, or that the same is in condition or fit to be used for the purpose for which intended.

The Grantee, by the acceptance of this Quitclaim Deed, covenants for itself, its successors and assigns, and every successor in interest to the property hereby conveyed, or any part thereof, that the said Grantee and such successors and assigns, shall not discriminate upon the basis of race, color, religion, or national origin in the use, occupancy, sale or lease of the property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit; nor shall it apply with respect to religion to premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the property hereby conveyed, and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

The Grantee, in addition, by acceptance of this Deed, agrees to the following "Excess Profits Covenant for Negotiated Sales to Public Bodies," as set forth in the Offer to Purchase, executed February 21, 1992, by the Grantee and accepted, JUNE 18, 1992, by the Grantor;

If, at any time within a three year period beginning from the date of conveyance of title by the Grantor, the Grantee, or its successors and assigns, shall sell or enter into agreements to sell the property conveyed herein, either in a single transaction or in a series of transactions, it is covenanted and agreed that all proceeds received or to be received in excess of the Grantee's or a subsequent seller's actual allowable costs will be remitted to the Grantor. In the event of a sale of less than the entire property, actual allowable costs will be apportioned to the property based on a fair and reasonable determination by the Grantor. For the purposes of this covenant, the Grantee's or subsequent seller's allowable costs shall include the purchase price of acquiring this real property, the financial costs associated with the acquisition, and the direct costs actually incurred and paid for physical improvements for the subject property for the following:

- a. Improvements for the property which serve only that property, including road construction, storm and sanitary sewer construction, other public facilities or utility construction, building rehabilitation and demolition, landscaping, grading, and other site or public improvements; and
- b. Design and engineering services with respect to the improvements described in (a) above, provided, however, that none of these costs will be allowable if defrayed by Federal grants or if used as matching funds to secure Federal grants.
- c. The finance charges actually incurred and paid in conjunction with loans obtained to meet any of the costs enumerated above.

In order to verify compliance with the terms and conditions of this covenant, the Grantee, or its successors or assigns, shall submit an annual report for each of the subsequent three years to the Grantor on the anniversary date of the deed. Each report will identify the property involved in the transaction, indicate the sale price of any property resold, the Grantee and the proposed land use, and enumerate any allowable costs incurred for physical improvements on the property that would offset any profit realized. If no resale has been made, the report shall so state. Failure to file timely reports will extend the operation of the covenant for an additional one-year period for each late or omitted report. The Grantor may monitor the property involved and inspect records related thereto to ensure compliance with the terms and conditions of this covenant and may take any actions which it deems reasonable and prudent to recover any excess profits realized through the resale of the property.

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NOTICE OF THE PRESENCE OF ASBESTOS, The Hartford Defense Area, Nike Housing Site, Middletown, Connecticut, includes asbestos-containing material in the siding and floor tiles. WARNING!

CERCLA WARRANTY:

Pursuant to Section 120 (h) of the Comprehensive Environmental Response, Compensation and Liability Act as amended, (CERCLA) 42 U.S.C. 9620 (h), the Grantor has made a complete search of its records concerning the property subject to this deed. Those records indicate that no hazardous substances, as defined by Section 101 (14) of CERCLA, have been stored or disposed of on the property during the time the property was owned by the Government.

The U.S. Army Toxic and Hazardous Materials Agency performed an enhanced preliminary assessment (PA) and selected sampling and analysis as recommended in the PA for the Hartford Defense Area Nike Housing Site Middletown, Connecticut and found no toxic or hazards materials present which would require remedial action. All units have both floor tiles and siding made from asbestos. Both the floor tiles and siding are in good condition and in a non-friable state; thus no remedial action was determined necessary or taken. The housing units have a potential for containing lead based paints due to their age. If this is the case, lead based paints would have been covered by non-lead based paints.

TO HAVE AND TO HOLD the foregoing property, together with all the privileges and appurtenances thereto, unto Grantee, its successors and assigns forever, as the property of the Grantee.

This Quitclaim Deed is not subject to Title 10, United States Code, Section 2652, and is exempt from real estate transfer fee by reason of Conn. Gen. Stat. Section 12-498.

IN WITNESS WHEREOF, the Grantor has caused this deed to be executed in its name by the Secretary of the Army, and the seal of the Department of the Army to be hereunto affixed the day and year first above written.

WITNESS:

UNITED STATES OF AMERICA

Walter H. Dohy

BY:

W. J. ...

SECRETARY OF THE ARMY



ACCEPTANCE BY GRANTEE:

The terms and conditions of this deed of conveyance are hereby accepted this 23RD day of June 1992.

MIDDLETOWN HOUSING PARTNERSHIP TRUST
INCORPORATED

BY: [Signature]

TITLE: PRESIDENT

CERTIFICATION

I, Marvin Farbman, certify that I am the Secretary for the Middletown Housing Partnership Trust, Incorporated, named as Grantee in the foregoing quitclaim deed. I certify that William H. von Mahland is the President for the Middletown Housing Partnership Trust, Incorporated and was on June 21, 1992 duly authorized to accept the foregoing quitclaim deed on behalf of the Middletown Housing Partnership Trust, Incorporated; and that said acceptance was duly signed for on behalf of said Middletown Housing Partnership Trust, Incorporated by authority of its governing body and within the scope of its delegated powers.

[Signature]
MARVIN FARBMAN
June 23, 1992
DATE

Rec'd for Record JUL 01 1992 at 10:40 AM
Recorded by Anthony Stone
Town Clerk

- SUBDIVISION
- SPECIAL EXCEP ON
- ZONING BOARD OF APPEALS
- SITE PLAN REVIEW

FILE # ZBA2021-4

Please fill out this application in pen only so we will know who you are, what you are applying to do, and how to contact you. With this basic information we will evaluate your project as it relates to City regulations as quickly as possible. Thank you for your cooperation.

GENERAL INFORMATION ABOUT THE PEOPLE INVOLVED

Date 3/23/21
 Applicant: The Middletown Housing Partnership Trust, Inc. Phone # ()
 Address: 42 Military Road City Middletown State CT Zip 06457
 Email: _____ Cell Phone # ()
 Agent: David E. Rosenberg, Esq. Phone#(203) 288-1333
 Address: 60 Washington Ave., #104 City Hamden State CT Zip 06518
 Email: david@gcghlaw.com Cell Phone #203) 444-1264

WHAT ARE YOU APPLYING TO DO? (CHECK ONE OR MORE)

- Add an addition to a single/two family dwelling to be used for _____
- Construct a single family dwelling (A-2 survey required)
- Add an addition to a multi-family or non-residential building to be used for (A-2 survey required)
- Convert an existing building from present use as _____ to a new use as _____
- Construct one or more new buildings to be used for (A-2 survey required)
- Subdivide land into building lots (A-2 survey required)
- Change the text of the Zoning Code or amend the Zoning Map
- Install a sign
- Start a Residential Unit Business Pursuit
- Application for Zoning Board of Appeals
- Extract Natural Resources like sand or gravel or fill an area
- Request for a G.S. 14-54 Location Approval (gen. repairer, used car or new car dealer)
- Other Variance to continue legal, non-conforming use of the premises, including front, side and rear yard requirements.

FACTS ABOUT LAND PROPOSED FOR USE

Landowner: The Middletown Housing Partnership Trust, Inc. Location: Military Road
 Name of Subdivision (if any): _____
 Zone R-15 Tax ID# _____ Tax As VHVVRU 0DSBBB Lot _____
 Is this project within 500' of a Municipal Boundary? Yes _____ No
 Is this project located in a FEMA 100 or 500 year flood plain? Yes _____ No
 Utilities Available: City Water ; Private Well (); City Sewer ; Private Septic ()

DESIGN REVIEW BOARD STAFF*

DATE OF REVIEW/APPROVAL

- PERMIT NOT REQUIRED
- ADMINISTRATIVE APPROVAL
- IWWA REVIEW REQUESTED
- IWWA PERMIT REQUIRED

SIGNATURE OF IWWA STAFF

_____ Meets Zoning Requirements

ZONING ENFORCEMENT OFFICER
 DATE OF APPROVED PLANS

SIGNATURE OF APPLICANT/AGENT**

SIGNATURE OF OWNER**

**Both signatures required. I certify that the above information and plans submitted are true and correct, and that, if required, an application for an Inland/Wetlands permit has been filed before or on the same day as the filing of this application with the P&Z Commission.

*Signature by the Design Review Board Staff is required for all designs for exterior rehabilitation or new construction in the business zones.

Received \$ 160.00 by SN check # 306

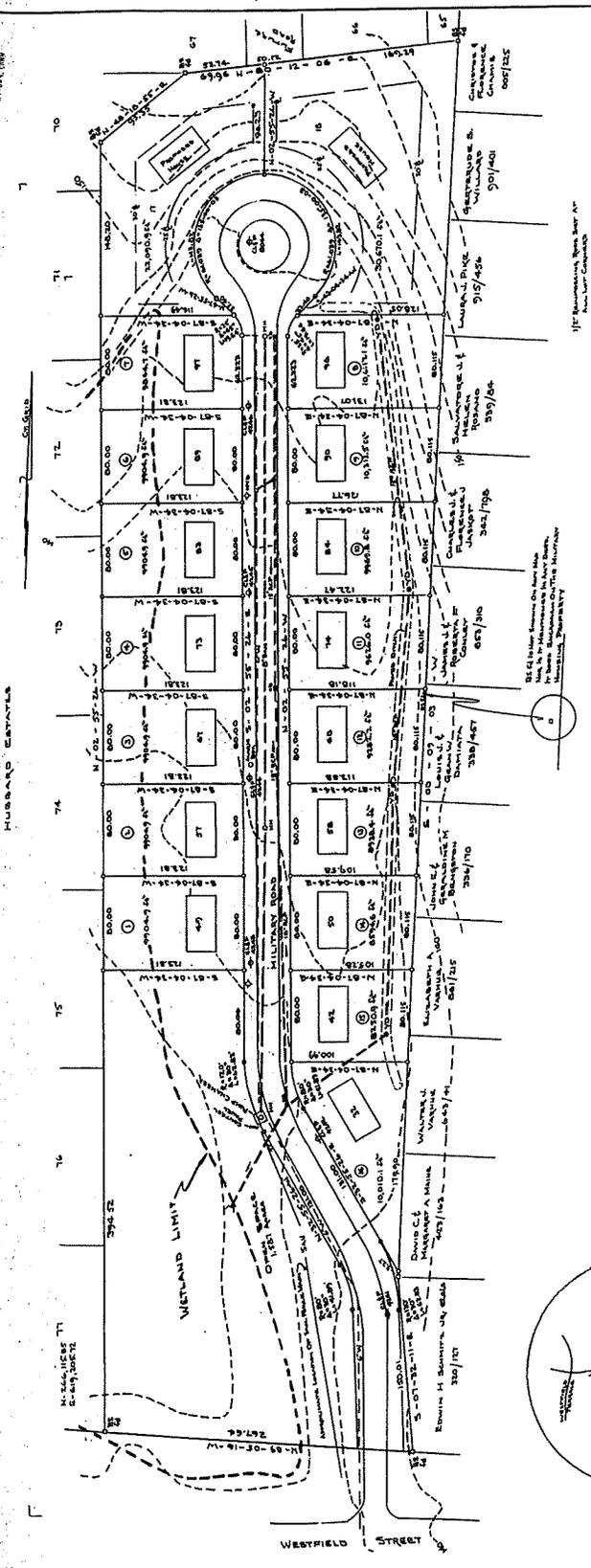
INITIAL APPLICATION FOR ZONING

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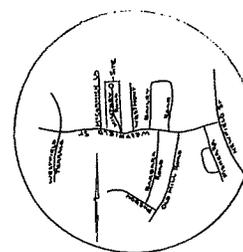
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- NOTES:
1. Assessor's Map 11 Block 18-23 Lot 24.
 2. Assessor's Map 11 Block 18-23 Lot 25.
 3. Assessor's Map 11 Block 18-23 Lot 26.
 4. Assessor's Map 11 Block 18-23 Lot 27.
 5. Assessor's Map 11 Block 18-23 Lot 28.
 6. All lots shown are existing except those depicted on lots 8 & 9 which are proposed.
 7. All proposed lots are connected to city water and sewer.
 8. Coordinate values and bearings are based on city monuments 143 & 142.
 9. Property is located in a 6-15 Zone.
 10. Total Area = 2.588 acres.
 11. Prepared by the Middletown Planning Partnership Trust, Inc.
 12. Record Date 01/11/2001.

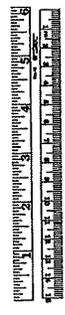


MILITARY TRAILS
 MIDDLETOWN, CT
 SCALE 1"=40'
 JULY 29, 1991



J. J. Johnson

This drawing was prepared by the Association of Land Surveyors, Inc. in accordance with the standards and practices for the State of Connecticut. It is the property of the Association of Land Surveyors, Inc.



117° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

184° 11' 10" Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

190° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

195° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

200° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

205° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

210° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

215° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

220° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000

225° Measurement, Block Area AC
 Area: 1.0000000000
 Perimeter: 2.0000000000



**Gambardella, Cipriano
Gottlieb & Hathaway PC**

Attorneys at Law

60 WASHINGTON AVENUE, SUITE 104, HAMDEN, CONNECTICUT 06518

TELEPHONE (203) 288-1333

FACSIMILE: (203) 230-4917

John L. Cipriano, Jr.
William V. Gambardella
Ian G. Gottlieb
Keith A. Hathaway
Nicole J. Barillaro (also admitted in New York)
Ian C. Wagemaker
David E. Rosenberg

of Counsel

Erik T. Potter (admitted in Massachusetts)

March 26, 2021

Town of Middletown
Planning & Zoning Office
245 DeKoven Drive
Middletown, CT 06457

Re: The Middletown Housing Partnership Trust, Inc. – Military Road
Initial Application for Land Use/Variance for Subdivision

Dear Sir/Madam,

Please be advised that I represent The Middletown Housing Partnership Trust, Inc., who owns the sub-surface fee interest in the real property located on Military Road. Per my prior correspondence with Joseph Samolis, Director of Planning, Conservation and Development, my client is being asked to submit an Initial Land Use Application to obtain a variance ahead of a subsequent subdivision application for each of the existing homes on Military Road. Also enclosed is the supporting documents required by the Variance Application and Initial Land Use Application, along with my check in the amount of \$160.00 to cover the filing fee for same.

Upon receipt of this application, please contact my office with directions for future events, either supplemental paperwork that may be required or plan for a virtual hearing. If you have any additional questions or concerns, please do not hesitate to contact me.

Thank you.

Very truly yours,

David E. Rosenberg

Enclosure