

Town of Middleton
Board of Selectmen Meeting
August 23rd, 2021

Called to order at 6:30 pm.

BOS Members Present: Joseph Varga, Michael Boisvert, James Knapp (excused)

Pledge Recited

Signature Action:

Selectmen Boisvert makes motion to accept minutes as written from August 9th, 2021. Selectmen Varga seconds. All in favor.

Public Input moved to after New Business.

New Business:

J. Kalar reads Planning Board petition to call a special meeting. See attached. Requesting meeting to be posted by August 25, 2021 for a meeting to be held on September 11, 2021. Town Moderator and Supervisors are all on board for this date. Selectmen Varga asks how many signatures the petition currently has. J. Kalar answers with 39, RSA 39:3 only requires 25 to request a hearing. Selectmen Varga states that 25 signatures are required to request a warrant article in RSA 39:3. Selectmen Varga goes on to read aloud RSA, see attached. J. Kalar states that they have spoken with Stephen Buckley at the New Hampshire Municipal Association, and he informed them that only 25 signatures are needed as this is a non-financial meeting, we would need 50 plus to get the votes at that meeting. Selectmen Varga states that is not how he is reading this RSA. States RSA 674 which then refers back to RSA 624:22, paragraph 2, which then refers to RSA 675:4 opening paragraph, second sentence. Selectmen Varga states the problem we have now is that according to this RSA we can only do a petition zoning article at the annual town meeting. Not saying we cannot do a meeting, we just need to make sure everything is done legally, because if it's not and this becomes a legal battle we will lose. J. Kalar said they had questioned this with Stephen Buckley and that this would fall under RSA 69:3. Selectmen Varga states that now we will present this to our legal team, so will not be able to post a meeting on 8/25 so therefore there will be no meeting on 9/11. Selectmen Varga asks if Planning Board Chair can forward the information that she received from NHMA so we know what was given and we can pass that along to legal as well. D. Saliga asks why cant we have the meeting scheduled for September 11, if we will possibly have all the information we need before then. Selectmen Varga answers he is not going to post a meeting without having all the information needed. J. Kalar states that the meeting would have to be posted by this Wednesday in order to have the meeting on September 11. Audience member asks if we can cancel the meeting after its posted until we are able to get the information. Selectmen Varga states he does not believe we could get everything we need in 2 days, and not going to have a meeting that isn't correct because it could possibly cause legal issues on the back side. D. Saliga asks if this moratorium would be retroactive to this date. J. Kalar states no. J. Kalar asks BOS if they meet the 2nd and 4th Mondays of the month. So by the second Monday the board will have answers for us. Selectmen Varga states he is hoping to have answers by next week.

Public Input:

A . Donahue states she understands the reason on the reluctance to schedule the meeting for September 11th, but asks if that means that a meeting cannot be scheduled until the second Monday in September because that when the next meeting is, or can the BOS determine at this meeting based on the clarifications of the RSA's from the legal team that would they even move forward with a meeting to

get one scheduled. Selectmen Varga states cannot make a determination until speaking with legal. It will be discussed at the next BOS meeting unless the BOS decide to post for a special BOS meeting. A. Donahue asks even if the selectmen were to get legal advice by the end of this week, they would still wait until the next meeting to schedule a special town meeting.

R. Mains asks if someone wants to build in town, with a multi-plan, and the planning board hangs onto it to make it feasible to not go through until the moratorium goes into place. J. Kalar states that the planning board will not sit on anything. D. Saliga asks if it is the planning board that issues building permits. Selectmen Varga states no, the planning board hears on subdivision plans. Selectmen Varga states per RSA a study has to be done, and done correctly. Have to verify who can be stopped in the process, where the process can be stopped. Selectmen Vargas understanding is that anyone that is already in process, no matter where they are, no matter with which board, cannot be stopped.

Selectmen has not had anything official to come before them until now with this moratorium. J. Kalar states that a single family and double family home can be built without going to the planning board.

D. Saliga asks if variances are accepted by zoning board then they would still have to go through the planning board. Selectmen Varga states that is correct, would still have to go through the planning board. Discussion on steps needed to be taken for planning board and zoning board.

D. Saliga states he was recommended to the Zoning Board, asks if he can be sworn in tonight. Selectmen Varga states yes.

J. Brown asks where the town is at with the Trustee situation, as the 3 we had resigned, so our funds are not being overseen. What is going on with that. Selectmen Varga states when we get back to new business they have 1, looking for a second at minimum, possibly a third and then we will move forward from there. J. Brown asks if we have to have 3. Selectmen Varga states no, a minimum of 2 to make a board. J. Brown states that from what she has read it needs to be 3. Selectmen Varga is looking into this, has sent these questions to legal already and waiting for a response back. J. Brown asks if there will be any ramifications or repercussions will be with these reports having not been filed. Selectmen Varga states he has spoken with Director Donovan, wasn't anything really negative as long as we make our way forward with getting everything filed. J. Brown asks if all the information has been obtained from previous trustee. Selectmen Varga states that we have the reports in hand writing, there is a question on one that needs to be resolved. We have always had the reports, they need to be uploaded to the state. That's where this whole issue is because they haven't been uploaded to the state. J. Brown states that it is concerning that we are going into 2022, and a 2019 report hasn't been done yet. Selectmen Varga states he wasn't aware of it until March of this year when 2019 wasn't done. That's when we found out the previous trustee was not the one previously doing all the previous computer filing being done. J. Brown states she understands the plan moving forward, but how do we avoid something like this from happening again and where was the oversight. Selectmen Varga states moving forward how to prevent it in the future the board can appoint 2 alternates to the board of trustees so that we can make sure there is enough people on the board, if we can get people to volunteer for the positions. J. Brown states you have new trustees coming in who may not want any part of signing those reports. Selectmen Varga states that the problem is the responsibility lies with those new trustees. J. Brown states she disagrees a little because when you get into legal aspects where someone can be held accountable she believe they do not have to sign the reports so they would need to find someone willing to come in and sign these reports. Selectmen Varga states in speaking with Director Donovan he asked if we could get the previous individual back to do these reports and he said no they are no longer responsible. Need to find people willing to step in and look over the information and get them uploaded. J. Brown asks if there is a ledger that is maintained. Selectmen Varga has not seen anything of that from anyone on the board. J. Brown states maybe as a solution using a calendar system or a tickler solution when it comes to filing these documents with the state. Selectmen Varga states it is all the responsibility of the who is on the trustee board at that time. J. Coskie asks when a trustee is appointed, assuming they have some

knowledge of accounting and bookkeeping, is there additional training for it for regulations required by the state or town. Selectmen Varga believes there is a handbook on the state website. D. Saliga asks if the trustees appointed now would legally be in trouble for the reports not having been done. Selectmen Varga states he does not believe so, in speaking with Director Donovan. He has granted us an extension to get these reports filed. Will work with us to get these filed. D. Saliga asks where do these reports need to be filed. Selectmen Varga states online. D. Saliga states he would be willing to help out. J. Kalar states that she knew in February that 2019 and 2020 weren't filed. States she had repeatedly asked for information and was not given to her. Why should we be held accountable for something the previous trustee did. Selectmen Varga states all you would be doing is filing the report. If there is missing funds, it would be the person who was on the board when the funds went missing would be the liable person. Selectmen Boisvert makes motion to adjourn. Selectmen Knapp seconds. All in favor.

Old Business:

None.

Continuation of New Business:

Selectmen Varga states he is looking to appoint Kathleen Blaney as a Trustee to Trustee of the Trust Funds. Selectmen Boisvert makes motion to appoint Kathleen Blaney as a Trustee to Trustee of the Trust Funds. Selectmen Varga seconds. All in favor.

Selectmen Boisvert makes motion to appoint Dan Saliga to the Zoning Board as an Alternate Member. Selectmen Varga seconds. All in favor.

C. Mattocks states he has no problem stepping in and volunteering for the trustees.

Selectmen Boisvert makes motion to appoint Cory Mattocks as a Trustee to the Trustee of Trust Funds. Selectmen Varga seconds. All in favor.

Public Input:

A . Donahue states the BOS is the legislative body for the town. A member of the BOS is a member of every board. Doesn't it make sense for some sort of reporting to be done to the BOS, or have a representative on the board as well.

J. Brown asks if the town has received ARPA funds yet. Selectmen Boisvert states application has been submitted, but have not received anything yet. J. Brown asks what the amount is. Selectmen Boisvert states waiting for the number to see where we would like to use it best. J. Brown asks if it is public knowledge as to where it goes. Selectmen Boisvert states yes it is public knowledge. J. Brown asks who manages it. Selectmen Varga states the BOS, we have 3 years to use. J. Brown states how ARPA is very technical on what it can be used on.

B. Gagnon states that it has been brought to the budget committees attention on how much has been paid out for vacation time to those who left this year. States we are not budgeted for that amount, so we are going to end up over budget. Which lines do these come out of. Selectmen Varga states they come out of the payroll lines. B. Gagnon states one is over \$10,000, one is over \$4,000 and there are others. What's the policies on vacation time. Selectmen Varga states its in the personnel policy book, they can hold a substantial amount of vacation time. B. Gagnon asks if they have thought about changing that. Selectmen Varga states yes. B. Gagnon says it should go for consideration as it's a lot to put us over budget. Selectmen Varga states yes it is, once again a new problem that comes before the board that needs to be resolved more immediately, things like personnel policy changes get pushed back.

J. Keegan asks if there is any information about trading in the ¼ truck. Selectmen Varga states in the past the Police Department has traded in cruisers mid year, and double check with legal. We can trade a truck in if looking at purchasing a new one off current budget lines.

J. Keegan states there has been questions about paving this year. The reason behind paving Ridge Road, which has been asked didn't we just pave it last year, yes we did. The reason we are paving now, is to put a top coat on, which is what we are doing now.

T. Donovan-Laviolette states she received an email last week from selectmen's secretary regarding 91-A request, although the date was wrong. There is a question that wasn't answered. States per RSA required to provide written proof of why denying answering the question. For her own records this was given to her on the 15th day after requesting when it is supposed to be within 5. Has looked at all 91-A requests and there is still one from January that she has not received. States the July 26th one she had given is still outstanding at 56 days and that was regarding draft minutes. Has reached out to the state for residents rights in regards to legality of minutes not being delivered, 91-A request not being answered. Selectmen Varga states he believes there may have been a misunderstanding in regards to the July 26th meeting as he was told all the questions had been answered in the meeting. T. Donovan-Laviolette states she was told they were on the website and they were not. Selectmen Varga asks which question was not answered. T. Donovan-Laviolette states it is has the 1.6% raises been given to ALL town employees and paid retroactively, the answer was no Joe would be the one to speak with on this. Selectmen Varga states the answer is still no. We haven't talked about pay raises yet, we still have to have a meeting about that. T. Donovan-Laviolette asks what the hold up is with getting the answers. Selectmen Varga states he thinks the confusion was that you were given your answers in the meeting. I have no good answers as to why we haven't been able to get you answers.

T. Donovan-Laviolette states the EMS committee has been asking for the police contract that includes the EMS/EMT pay so she is requesting that as well.

R. Tufts-Keegan states last week at the budget committee it was discussed about the department heads getting their portion of the budget or the full budget, then that way the budget committee could speak with the department heads with any questions that they may have. That is what we are looking to do. Selectmen Boisvert states already have it set up with the bookkeeper, so that the first or second day of the month they will get their budget.

R. Mains asks if the selectmen have checked on the cell tower contract. Selectmen Varga asks what about the contract. R. Mains states that if he remembers correctly every year the town was to accrue pay for the cell tower to sit where it is. States should look into and see if the tower company has been paying what they should. Selectmen Varga states it did increase but will look into. R. Mains states that when the Coskie's and himself were working on the tower, asked the selectmen at the time could at least take partial of the first payment to hold a community party. Selectmen Varga states all funds were voted on to go into the highway department building fund, so we cannot use those funds. J. Coskie states might be feasible for the town and for the situation, the recreation department in the past has had things, maybe next year, community celebration and the recreation department could perhaps help with some of the expenses. Maybe some of the grant funds could go into it. A. Coskie states he wonders how many people understand the significance of this particular tower. This is the first one in this entire area, First Net is the emergency provider network. Selectmen Varga states First Net is the first responder network, their tower is dedicated to first responders the tower will drop all communication in the area in the event of an emergency.

Selectmen Boisvert makes motion to adjourn meeting. Selectmen Varga seconds. All in favor.

Meeting adjourned at 7:31 pm.

Respectfully Submitted:

Sierra Pawnell, Administrative Assistant

DRAFT

Town of Middleton, NH: Petition to Call a Special Meeting

TYPE OF ARTICLE: Town By-Law ____ Zoning By-Law X Conservation ____ Statute
Acceptance ____ Street Acceptance ____ Subject Matter: Temporary Moratoria on Building
(RSA 674:23)

(Check one) Financial ____ Non-Financial X

Contact Information:

PETITIONER Name: Mackenzie Brisson Street Address: 192 Pheasant Drive

E-Mail address: brissonmackenzie@gmail.com Tel # (603) 973-4074

SPEAKER Name: Janet Kalar Address: 20 Dudley Drive (If different from above)

E-mail Address: janetkalar@yahoo.com Tel # (603) 755-4904

WE, THE UNDERSIGNED REGISTERED VOTERS OF THE TOWN OF MIDDLETON HEREBY
PETITION THE BOARD OF SELECTMEN TO CALL A SPECIAL TOWN MEETING PER RSA
39:3 AND TO INCLUDE IN THE WARRANT FOR SAID MEETING THE FOLLOWING
ARTICLE(S):

Shall the Town of Middleton, in accordance with RSA 674:23 and upon the recommendation and
written finding of the Middleton Planning Board adopt the following ordinance establishing a
moratorium on development in the Town of Middleton?

Ordinance Establishing a Moratorium on Development in the Town of Middleton (RSA
674:23)

This ordinance hereby establishes a moratorium on the issuance of building permits for new
single-family or multi-family housing and the granting of site plan and subdivision approvals
within the Town of Middleton for a period of 365 days which shall be effective immediately upon
the vote of the legislative body and is based on the recommendation and written finding of the
Middleton Planning Board which describes the unusual circumstances that justify the ordinance
and recommends a course of action to correct or alleviate such circumstances.

Statement of the Unusual Circumstances giving rise for the need of a moratorium

Please see attached Middleton School Board letter.

Planning Board's Written Findings

Please see attached letter.

Term of the Ordinance

The term of this ordinance is 365 days and shall be effective immediately upon the vote of the
legislature.

Types or categories of development to which the ordinance applies

This ordinance shall apply to the issuance of building permits for new single-family or multi-family housing and the granting of site plan and subdivision approvals for all types and categories of development unless exempted by or in accordance with this ordinance.

Description of the area of the municipality

This ordinance shall apply to the entire Town of Middleton.


Exemptions from the Moratorium

1. Building permits for Accessory Dwelling Units as defined in Article 36, page 87 of the Middleton Zoning Ordinance are exempt from this moratorium.
2. Building permits for lots created by subdivisions approved by the Middleton Planning Board prior to the adoption of any ordinance based on these findings are exempt from this moratorium.
3. Applications that have been approved by the Middleton Planning Board prior to the date of the adopted ordinance are exempt from this moratorium.
4. Applications submitted as Housing for Older Persons as specified in Middleton Zoning Ordinance Article 36, page 92 are exempt from this moratorium.
5. The Middleton Planning Board may provide for the exemption from the moratorium of those types or categories of development that have minimal or no impact on the ability of the Town of Middleton to provide adequate school services within the Middleton School District.
6. The Middleton Planning Board may provide special permit or conditional use permit to allow development that has minimal or no impact on the ability of the Town of Middleton to provide adequate school services within the Middleton School District.

Further, this ordinance establishes the following course of action to correct or alleviate the unusual circumstances that affect the ability of the Town of Middleton to provide adequate school services and requires prompt attention to develop or alter a growth management process under RSA 674:22, a zoning ordinance, a master plan, or capital improvements program.

We are requesting that the date for the above-referenced special town meeting be set for Saturday, September 11th, 2021 at 10:00 AM. Please do the necessary postings by Wednesday, 8/25/2021.

Respectfully Submitted,


Mackenzie Brisson

Middleton School District
School Administrative Unit #69

Middleton School Board
182 Kings Highway
Middleton, New Hampshire 03887

August 9, 2021

Dear Members of the Planning Board,

I am writing to you on behalf of the Middleton School Board in regard to a Middleton Planning Board Public Hearing to be convened on August 12, 2021 about the following:

RSA 674:23 Temporary Moratoria and Limitations on Building Permits and the Approval of Subdivisions and Site Plans.
RSA 674:22 Growth Management: Timing of Development.

The Middleton School Board met on August 9, 2021 to discuss these public hearing topics.

- 1.) A motion was made by Mary Knapp in support of a moratorium per RSA 674.23 with the exception to a moratorium being applied to school construction projects. The Board voted 4 in favor and 1 abstained.
- 2.) A motion was made by Scott Ferguson in support of the Planning Board developing a Growth Management proposal per RSA 674.22. The Board voted unanimously in favor.

At our June 2021 School Board meeting we recently discussed our Elementary School enrollment. The school board toured the kindergarten classroom for a first-hand review of the classroom physical size. We learned our enrollment in kindergarten, 1st grade and 2nd grade are ranging with 23 - 25 students at that meeting. This is a very high student count resulting in our students and faculty on the verge of over-utilizing these academic classrooms.

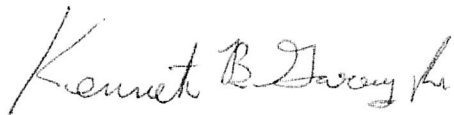
To accommodate more students the board could review, with school administration consultation, available spaces in the elementary school. We would have to re-evaluate how our specials (music, art, and library) are taught. We would have to consider options such as taking back these locations to become traditional classrooms and move specials to a roll cart only if feasible or possibly discontinue these specials.

Alternatively, the school district could engage in the construction of an addition to the existing school. The existing school has a conceptual design for two additional classrooms adjacent the current 5th and 6th grade classrooms and a doubling of the multi-purpose room size. Construction costs could easily exceed \$1.5M. Please note that the construction of the existing elementary school was funded solely by the Middleton School District. The school district is currently 5 years into a 20-year bond note. New Hampshire School Building Aid was not available to the school district due to a state moratorium on this aid. Under the old building aid formula NH school districts would receive 30% - 60% of school construction costs depending upon community demographics such as income. Middleton would have been eligible for 60% of the cost of the school had building aid been available.

The school administration has provided enrollment data for the elementary school, 2017 to date. Please note enrollments are based on the month of October every year and are subject to increase and decrease during the school year. The Power School Numbers at the top of the page are from the close of School Year 2021 and include in process registrations for the upcoming School Year 2022. Please see below.

If you have any questions or if we can be of further assistance, please feel free to contact me. If you need immediate assistance please contact Scott Ferguson, Vice Chairman, as I will be on vacation until the 23rd.

Sincerely,



Ken Garry
Middleton School Board, Chairman

**MIDDLETON ELEMENTARY SCHOOL
ENROLLMENT REPORT FOR AUGUST 9, 2021 BOARD MEETING**

	<u>Pre</u>	<u>K</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>Totals</u>
Power School Numbers	4	20	21	24	15	18	18	18	138
In Process Registrations		10	1	1			1	1	14
DISTRICT TOTAL	4	30	22	25	15	18	19	19	152

	<u>Pre</u>	<u>K</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>Totals</u>
October 1, 2020	13	23	25	13	18	18	17	17	144
October 1, 2019	4	24	15	19	18	14	19	20	133
October 1, 2018	8	15	22	19	12	21	19	22	138
October 1, 2017	6	17	17	13	22	18	22	20	135

For Special Planning Board Meeting – Thursday, August 12, 2021

Town of Middleton Planning Board Written Finding and Recommendation for Temporary
Moratoria (RSA 674:22, 23)

Pursuant to RSA 674:23, the Middleton Planning Board finds that the legislative body of the Town of Middleton should adopt an ordinance establishing a moratorium on the issuance of building permits for new single-family or multi-family housing and the granting of site plan and subdivision approvals for a period of one year.

These findings are forward-looking. Applications that have been approved by the Middleton Planning Board prior to the date of any ordinance adopted based on these findings are exempt from the proposed ordinance. Based on the information provided by the Middleton School Board (SAU 69) (See Attachment 1), continued development will significantly impact the ability of the Town of Middleton to provide adequate school services within the Middleton School District. According to the School Board's letter, this could require potentially additional classroom sections; some of the projected class sizes for the next school year could exceed the specifications outlined in NH State Regulations (N.H. Code Admin. R. Ed 306.17) (See Attachment 2).

Due to the potential for unplanned stress on the capacity of the Middleton schools, the Planning Board recommends that any ordinance(s) adopted by the legislative body under RSA 674:22, 23 include the following:

- Establish a moratorium on the approval of site plans and subdivisions for a period of one year (365 days).
- Establish a moratorium on the issuance of building permits for new single-family or multi-family housing for a period of one year (365 days).
- Building permits for Accessory Dwelling Units as defined in Article 36, page 87 of the Middleton Zoning Ordinance are exempt from this moratorium.
- Building permits for lots created by subdivisions approved by the Middleton Planning Board prior to the adoption of any ordinance based on these findings are exempt from this moratorium.
- Applications that have been approved by the Middleton Planning Board prior to the date of the adopted ordinance are exempt from this moratorium.
- Applications submitted as Housing for Older Persons as specified in Middleton Zoning Ordinance Article 36, page 92 are exempt from this moratorium.
- The Middleton Planning Board may provide for the exemption from the moratorium of those types or categories of development that have minimal or no impact on the ability of the Town of Middleton to provide adequate school services within the Middleton School District.

- The Middleton Planning Board may provide special permit or conditional use permit to allow development that has minimal or no impact on the ability of the Town of Middleton to provide adequate school services within the Middleton School District.
- The Middleton School District shall establish a facilities study committee to address classroom space issues. Preliminary findings shall be submitted to the Middleton Capital Improvements Committee no later than June 30th, 2022 for inclusion in the scheduled publication of the 2023-2028 Capital Improvements Plan. Any warrant articles required to implement the recommendations of this facilities committee shall be included on the Middleton 2023 warrant.
- The Middleton Planning Board shall commission a study of school and town services to be performed in accordance with RSA 674:22 (a Growth Management Ordinance) to determine if there is a demonstrated need to regulate the timing of development based upon the Town's lack of capacity to accommodate anticipated growth. A report shall be submitted to the Planning Board no later than June 30th, 2022.

Goals of the Middleton Planning Board regarding the Temporary Moratorium:

- Create a separate CIP committee (RSA 674:5)
- Create a Growth Management Committee/Ordinance (RSA 674:22, p. II) [must have a time frame- recommended is 5 years]
- Create a Temporary Moratorium (RSA 674:22, p. II; 23) [additional may be adopted, but only if based on circumstances that did not exist at the time of the adoption of the previous moratorium]
- Create an assessment of the “collective impact” of all land use ordinances and regulations adopted per RSA 674 to determine whether the Town of Middleton is providing a “reasonable and realistic” opportunity for the development of workforce housing (as defined)
- Create an Impact Fee Committee to recommend Impact Fees to be levied for the off-site impact of developments upon municipal and school capital facilities (such as roads, water, and sewer systems, fire and police departments, recreational facilities, and school facilities) [RSA 674:21, p. V]
- Create a School & Town Services Committee (RSA 674:22) [“Direct Planning Board to commission a study of school and town services to be performed in accordance with RSA 674:22 to determine if there is a demonstrated need to regulate the timing of development based upon the Town’s lack of capacity to accommodate anticipated growth. Further, at the discretion of the study, to review the Town of Middleton, NH Zoning and Land Use Ordinance to determine any changes that may be necessary to address development within the Town of Middleton or any other business related thereto”]
- Update the Master Plan as needed (RSA 674:2, p. I) with the purpose and intention to “set down as clearly and practically as possible the best and most appropriate future development..., to aid the board in designing ordinances that result in preserving and enhancing the unique quality of life and culture of New Hampshire, and to guide the board in the performance of its other duties...[to] achieve the principles of smart growth, sound planning, and wise resource protection.” The information compiled for the Master Plan needs to include sections on the vision of the community and land use (RSA 674:2, II (a), (b)). Additional sections which can be included are transportation, community facilities, economic development, natural resources, natural hazards, recreation, utility/public service, cultural and historic resources, regional concerns, neighborhood plan, community design, housing, and implementation (RSA 674:2, III). The public is invited by the Planning Board to participate in the process (RSA 674:3, III). A Master Plan is typically updated every five to ten years (RSA 674:3, II).

Respectfully Submitted on August 12, 2021 by the Middleton Planning Board