



TOWN OF MIDDLEBURY

*Planning & Zoning Commission
1212 Whittemore Road
Middlebury, Connecticut 06762
(203) 577-4162 ph
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FEBRUARY 4, 2016 REGULAR MEETING MINUTES

MEMBERS PRESENT

Terry Smith, Chairman
William Stowell, Vice Chairman
Matthew Robison
Erika Carrington
Joseph Drauss

ALTERNATES PRESENT

Paul T. Babarik
Jeffrey Grosberg

ALSO PRESENT

Brian Miller
John Calabrese, P.E.
Curtis Bosco, Z.E.O.

MEMBERS ABSENT

ALTERNATES ABSENT

Christian Yantorno

CALL TO ORDER

Chairman Smith called the meeting to order at 7:29 p.m.

ROLL CALL AND DESIGNATION OF ALTERNATES

Chairman Smith welcomed Jeffrey Grosberg as a new Alternate Member of the Commission. He announced Regular Members Smith, Stowell, Robison, Carrington, Drauss and Alternate Members Babarik and Grosberg as present. Alternate Member Yantorno was absent.

PUBLIC HEARING

1. Southford Road, LLC & Southford Park, LLC/1000 & 984 Southford Road- Application for Special Exception for Excavation & Grading and Signage (Application #2016-1-1)

Chairman Smith called the Public Hearing to order at 7:30 p.m. He stated that said Public Hearing was strictly for a Special Exception for Excavation & Grading and for Signage only. He read the Legal Notice published in Voices on 1-20-16 & 1-27-16 for the record.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. The applicant is seeking to construct a grocery store. The Southford Road property is approximately 2.3 acres and his client has a contract to purchase more than 1 acre of land from Southford Park, LLC. The Middlebury Conservation Commission did grant their approval on 11-24-15. Pursuant to Section 62.4, they are requesting that this Commission waive the requirements of Section 52.3.16 - B, C, D, E, F, & G. This request is based on the fact that there is no building, he does not feel that a traffic report is necessary, the construction activities are not in a watershed, and he also does not feel it is necessary to obtain reports from the Fire Marshal and the Director of Health for excavation or signage. The proposed grocery store will be 11,700 square feet in size. Approximately 7,700 yards of fill will be moved within the property. He confirmed receipt of the comments from Town Engineer, John Calabrese, P.E. dated 1-29-16 and stated that all have been addressed.

Jeremy Oskandy of Arthur H. Howland & Associates P.C. reviewed the revised plans dated 2-2-16 with the Commission, as well as their letter dated 2-2-16 in response to the comments of John Calabrese, P.E. The property is just south of North Benson Road. Access to the building will be on the north and south. The fill for the site will be contained by a proposed retaining wall. There will be 2 detention systems. He confirmed that the hours of operation for construction activities will be Monday-Saturday, 7:00 a.m. – 7:00 p.m. and no activity on Sundays or major holidays.

Attorney McVerry stated that he submitted a rendering of the sign with the application. The proposed sign will be 6'X8' with 12" and 10" letters.

John Calabrese, P.E. confirmed that his comments have been addressed.

Motion: to close the Public Hearing. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

Chairman Smith called the Regular Meeting to order at 7:46 p.m. He announced Regular Members Smith, Stowell, Robison, Carrington, Drauss and Alternate Members Babarik and Grosberg as present. Alternate Member Yantorno was absent.

MINUTE APPROVAL

2. Discussion of the Minutes of the Regular Meeting held on January 7, 2016

Motion: to approve the Minutes of the Regular Meeting held on January 7, 2016 as submitted. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

OLD BUSINESS

3. Sabbir Properties, LLC/550 Middlebury Road – application for a site plan (Application #2015-12-1)

Attorney Neal White of Cramer & Anderson, LLP, of Litchfield, CT spoke on behalf of the applicant. The Site Plan has been revised, dated 2-2-16, pursuant to the recommendations of John Calabrese, P.E. Lighting in the rear parking lot area has been added.

The developer of the property discussed the revised plans with the Commission.

Joseph Drauss questioned, the fence, shed, parking, landscaping and lighting.

The developer confirmed that the fence and shed will be coming down. The lot will be paved with a new catch basin and landscaped and he guaranteed that all will be properly maintained. The cutout lighting will be 16' in height (one on each side in the front and 2 in the back). The back of the property will also contain 8 parking spaces as well as 2 on the left and 1 handicap space.

Chairman Smith requested that all the details discussed be referenced on the plans. He also stated that he wanted to continue this discussion due to the fact that the Economic Development has yet to provide their input. Once a written report is received and revised plans with more details are submitted, this Commission will act on the application. He suggested a demolition plan and a new plan so as to avoid too much detail on one plan.

Paul Babarik questioned if the canopy would be replaced as it only covers the existing 2 pumps and the applicant is proposing 3 pumps.

The developer confirmed that they will be utilizing the existing canopy and adding a pump. However, the canopy will be receiving a facelift and the base of the 3rd pump already exists.

Matthew Robison questioned if the sidewalk would be contingent on what D.O.T. requests.

Curtis Bosco, Z.E.O. stated that the only thing D.O.T. wants to do is change the light posts to the opposite corners and anticipates that this will not be done for a few years. Therefore, the construction of the sidewalk does not need to be put on hold.

The developer stated that the sidewalk will extend to the property line and that new underground gas tanks will be put in.

Attorney White questioned if there was a timing issue as far as the Commission needing to make a decision.

Chairman Smith stated that the Commission had no issue as long as he didn't.

Attorney White responded that he did not at all and that he just wanted to cover his basis.

**4. Southford Road, LLC & Southford Park, LLC/1000 & 984 Southford Road-
Application for Special Exception for Excavation & Grading, Signage & Site
Plan Approval (Application #2016-1-1)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. The total acreage is approximately 3.5 acres and the applicant is proposing to construct an 11,700 square foot grocery store. He submitted the following for the record:

- A. A copy of an Architectural Review from the Economic and Industrial Development Commission indicating their approval of the architectural design;
- B. A copy of the Minutes of the 1-19-16 WPCA meeting approving the sewer connection;
- C. A letter dated 1-15-16 from Acting Police Chief, Francis Dabbo indicating that he does not believe there is line of sight or traffic issues with the plan;
- D. A letter dated 1-30-16 from Fire Chief, Anthony Bruno indicating approval;

- E. A copy of the Conservation Commission Minutes and Resolution from their 11-24-15 meeting indicating their approval.

He added that when this Commission enacted the Gateway Industrial Design District, he suspected that this was the type of project they had in mind. The site will include 77 parking spaces while only 72 are required.

Kevin Bennett of Bennet Sullivan Associates, Architects and Planners, Southbury, CT submitted and reviewed the Building Plans with a revision date of 1-29-16 with the Commission. The floor has a sloped site to the back where the services for the building are located. Most of the mechanicals will be located on the roof or the back of the building. The store has a covered entrance in the front. The façade will consist of brick as well as HardiePlank Beaded Lap Siding and the roof will have architectural shingles. They are also proposing an outdoor dining patio, not for food service, but rather for convenience for customers, employees or anyone that wishes to purchase products from the store. The property will be landscaped along the road and the signage on the building meets the regulations.

Attorney McVerry confirmed receipt of Mr. Millers comments dated 1-30-16. He explained that a survey performed in the early 90's raised an issue on what the boundary lines actually were. When Jeremy Oskandy of Arthur H. Howland & Associates P.C.A performed his survey, it was evident that the boundary line runs along the actual abutting property line. As a result, there appears to be a pie shaped piece of land that belongs to Southford Parks' predecessor Elm Holdings, Inc. When Southford Park purchased the property, they purchased all the property that Elm Holdings owned on that site. Attorney McVerry added that he has had discussions with the President of Elm Holding, Inc. and his attorney. As a result, his attorney is hesitant to allow his client to sign a Quit Claim Deed. Therefore, Attorney McVerry has commenced a Quiet Title Action on behalf of Southford Park to clarify the ownership of said piece. They do take issue with the request for sidewalks as they feel that they would be orphaned.

William Stowell voiced his concerns with respect to school kids traveling to the store and it being a safety concern. While neighboring properties do not have them, this Commission would like them to be put in with new applications.

Matthew Robison added that while it is not the primary concern, it would create a certain look coming up the Gateway area.

Attorney McVerry stated that it would be a decision the Commission would have to make and agreed that the space is available to put it in.

Chairman Smith questioned if there were renderings of the lights.

Kevin Bennett of Bennet Sullivan Associates, Architects and Planners, Southbury, CT informed the Commission that they are a 20' pole with RAB type fixtures with LED lighting which are dark sky compliant. He showed a rendering to the Commission.

Matthew Robison recommended that a 30" wall be constructed by the outside dining area so as to avoid litter and debris.

Kevin Bennett of Bennet Sullivan Associates, Architects and Planners, Southbury, CT reviewed the proposed wall and railing. The patio is located on an elevated area and the grade does go down with a railing around it. He prefers this rather than a 30" wall. He also added that any debris would end up on the owner's property and that cleanup is part of maintenance.

1. **Motion:** to waive the requirements of Section 52.3.16 - B, C, D, E, F, & G. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.
2. **Motion:** to approve the Special Exception for a Sign as shown on Site Development Plan for Southford Road, LLC, dated 7-17-15 based on the location of buildings on adjacent lots. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.
3. **Motion:** to approve a Special Exception for an Excavation & Grading Permit subject to the recommendation of Calabrese engineering and posting of a bond acceptable to the Board of Selectmen. Made by Joseph Drauss, seconded by William Stowell. Unanimous Approval.
4. **Motion:** to approve the Site Plan as shown on Site Development Plan for Southford Road, LLC, dated 7-17-15 per the following conditions:
 - Putting in sidewalk along front, facing Route 188;
 - Successful resolution to the boundary issues;
 - Recommendations of Calabrese Engineering dated 1-29-16;
 - Comments of Mr. Miller dated 1-30-16
 - Submittal of a Revised Site Plan

Motion made by William Stowell, seconded by Erika Carrington. Unanimous Approval.

NEW BUSINESS

5. 2191 Straits Turnpike, LLC & County Line Carriage, LLC/2160 Straits Turnpike-Application to Amend the Zoning Regulations (Application #2016-1-2)

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. The proposal is to amend the Zoning Regulations to allow a commercial carwash in the limited area that the Town allows for the dealerships on Straits Turnpike. Said proposal would allow it as an accessory use for a motor vehicle dealership which is defined as a full service automobile facility excluding any self-wash activities. He requested that the Commission accept the application and schedule a Public Hearing. He also mentioned the inconsistencies within the Regulations concerning the distance requirements.

Motion: to accept the application and schedule a Public Hearing for March 3, 2016. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

OTHER BUSINESS

6. Any other business added to the agenda by 2/3 vote of the Commission

None

7. Enforcement Report

Curtis Bosco, Z.E.O. reviewed his enforcement report with the Commission. He updated them on the excavation which was occurring on Glenwood Avenue. He learned that it was for landscaping purposes. In addition, the electric lighted sign located at 572 Middlebury Road has been taken down. Mr. Bosco was also assured that the flag would be taken down by the end of the month. The proposed cellphone tower which is supposed to go in the church, is going to happen in the near future. On 1-7-16 he signed off on 8 Demolition Permits. Westover School is in the process of performing major renovations to the dormitory area (all interior). They also plan to put in a large parking lot with a lighted walkway to St. John of the Cross Church, which will be shared by both. A stone crosswalk across South Street is also being proposed. All is anticipated to take approximately 3 years to complete. There has been some discussion of moving outside the footprint within their property but they have so much property, he does not foresee any issue. He also confirmed receipt of Citing Counsel material.

8. Adjournment

Motion: to adjourn the meeting at 8:54 p.m. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Edith Salisbury, Town Clerk

cc: P&Z Commission Members
Vincent LoRusso, Chairman, Conservation Commission
Ollie LeDuc, Building Official
Curtis Bosco, Z.E.O.
David Alley, Chairman, Z.B.A.
Attorney Dana D'Angelo
Larry S. Hutvagner, CFO
Rob Rubbo, Director of Health
Mary Barton