



# **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission  
1212 Whittemore Road  
Middlebury, Connecticut 06762  
(203) 577-4162 ph  
(203) 598-7640 fx*

## **MARCH 3, 2016 REGULAR MEETING MINUTES**

### **MEMBERS PRESENT**

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

### **ALTERNATES PRESENT**

Jeffrey Grosberg

### **ALSO PRESENT**

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

### **MEMBERS ABSENT**

### **ALTERNATES ABSENT**

Paul T. Babarik  
Christian Yantorno

### **CALL TO ORDER**

Chairman Smith called the meeting to order at 7:28 p.m.

### **ROLL CALL AND DESIGNATION OF ALTERNATES**

Chairman Smith announced Regular Members Smith, Stowell, Robison, Carrington, Drauss and Alternate Member Grosberg as present. Alternate Members Babarik and Yantorno were absent.

## **PUBLIC HEARING**

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

Chairman Smith called the Public Hearing to order at 7:29 p.m. He read the Legal Notice published in Voices on 2-17-16 & 2-24-16 for the record as well as a Staff Referral Report, dated 2-24-16, from Joanne Rogalski, Regional Planner, NVCOG, 49 Leavenworth Street, Suite 303, Waterbury.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. They are seeking what is similar to what was proposed and approved by this Commission approximately 6 years ago on Route 188, the Gateway Industrial Design District. He submitted a slight change to the Commission this evening due to the fact that the location is not serviced by water and sewer. Therefore, said language was removed from the proposed amendments. This will be an accessory use, a commercial car wash as defined as full service, specifically excluding any self-wash activities and limited to vehicles less than 10,000 lbs. gross vehicle weight, on at least a 2 acre parcel and sign approval must be granted in accordance with the existing Sign Regulations. Under the Plan of Conservation & Development, the Straits Turnpike north commercial area is designated as consisting primarily of automobile dealerships describe as a typical auto row. A commercial carwash is a natural accessory use to an auto dealership and will add to the grand list. This is a first step, if approved, which would then require the applicant to return with an application for a Special Exception for a Site Plan. He also confirmed that the proposed carwash will be available for public use, utilizing recycled water, but will not have bays for self-washing. He would neither confirm nor deny if his client plans to apply for a Special Exception for a Sign.

Chairman Smith voiced his concerns with respect to the possibility of the cue and ice accumulating onto the street. Therefore, he offered some suggestions and requested that said issues be referenced in the amended regulations as well.

Patrick Bayliss stated that the carwash could service 20-30 vehicles per hour although he does not anticipate reaching such a large number. In addition, the grit trap and the recycled water it contains will be cleaned out two (2) times per year.

Chairman Smith read his suggestions for the record.

**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 7:47 p.m. He announced Regular Members Smith, Stowell, Robison, Carrington, Drauss and Alternate Member Grosberg as present. Alternate Members Babarik and Yantorno were absent.

### **MINUTE APPROVAL**

#### **2. Discussion of the Minutes of the Public Hearing and Regular Meeting held on February 4, 2016**

**Motion:** to approve the Minutes of the Public Hearing and Regular Meeting held on February 4, 2016 as submitted. Made by Joseph Drauss, seconded by William Stowell. 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. Per the request of the Commission, the Site Plan was amended. A rendering was also presented to the EIDC. As a result, said Commission submitted an Architectural Review.

Scott Meyers, P.E. of Meyers Associates PC reviewed the revised plans with the Commission. The revisions include lighting detail, items to be removed, improved or added to the site. The existing fence around the rear of the property will be removed as well as the shed addition and some large rocks. The parking does conform to the Regulations and will contain an island with a couple of spaces adjacent to the building.

Chairman Smith stated that the proposed additional pump would be within the 75 foot setback and was considering obtaining the opinion of Town Counsel.

Attorney Neal stated that in the event the 3<sup>rd</sup> pump created an issue, his client would be willing to forego the installation of said pump.

Chairman Smith suggested that the applicant submit a modification of the existing plan without the 3<sup>rd</sup> pump until Town Counsel offers an opinion.

Attorney Neal indicated that the 3<sup>rd</sup> pump was not critical.

Scott Meyers, P.E. of Meyers Associates PC continued reviewing the plans, pointing out the inclusion of the sidewalk, the closure of one curb cut to be replaced with landscaping as well as landscaping in other areas around the site. A water quality unit and catch basin are also being added per the request of John Calabrese, P.E.

Brain Miller requested that the parking be more defined, the lots be combined and additional screening to the north of the property.

Attorney Neal stated that they take no issue with Mr. Miller's requests.

Scott Meyers, P.E. of Meyers Associates PC agreed to stagger the plantings.

**Motion:** to approve the Site Plan titled: Site Plan Prepared for ANZ Petroleum Inc. by Meyers Associates, dated 12-18-15 and revised to 2-16-16 subject to the following conditions:

1. Removal of 3<sup>rd</sup> gas pump labeled: "New gas pump to be added", as it is within the front setback of the property;
2. Posting of a Performance Bond acceptable to the Board of Selectmen per Section 51.6;
3. Posting of a separate Landscape Bond acceptable to the Board of Selectmen;
4. Payment of all fees;
5. Compliance of Turner Miller Memorandum dated 3-3-16;
6. Compliance of Calabrese Engineering Memorandum dated 1-29-16.

A Certificate of Zoning Compliance granted under this section shall be valid only if the plan is substantially underway within a period eighteen (18) months from the date of approval and is completed within three (3) years after said date of approval.

**Motion:** made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

**4. 2191 Straits Turnpike, LLC & County Line Carriage, LLC/2160 Straits Turnpike-Application to Amend the Zoning Regulations (Application #2016-1-2)**

William Stowell requested that #4 – "Signs shall be approved in accordance with §52.10.10 and §63 of the Regulations" be removed from the amendment.

**Motion:** to amend the Middlebury Zoning Regulations as presented and amended (see attached) effective 3-25-16. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

## **NEW BUSINESS**

### **5. Vincent & Candice Graziano/233 South Street-Application for Special Exception for an accessory apartment (Application #2016-2-1)**

**Motion:** to accept the application and schedule a Public Hearing for 4-7-16. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

### **6. Middlebury Land Development, LLC/Benson Rd.-Application to amend Section 22.3.1 of the Zoning Regulations**

Attorney Jennifer Yoxall of Carmody, Torrance, Sandak and Hennessey, LLP spoke on behalf of the applicant. She requested that the Commission accept and application and schedule a Public Hearing for next month. She also stated that the return receipts for the certified mailings sent to the adjacent towns were received.

Curtis Bosco, Z.E.O. assigned application #2016-3-1.

**Motion:** to accept the application and schedule a Public Hearing for 4-7-16. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

### **7. Village Square Associates/530 Middlebury Road-Application for a Special Exception**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. The applicant is seeking to put in a patio for the restaurant. Therefore, he requested that the Commission accept the application and schedule a Public Hearing.

Curtis Bosco, Z.E.O. assigned application #2016-3-2.

**Motion:** to accept the application and schedule a Public Hearing for 4-7-16. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

## **OTHER BUSINESS**

### **8. A letter to OPM notifying them of the adoption of the POCD, to be signed by the Chairman**

Brain Miller stated that as a formality he would like to submit a letter to OPM signed by the Chairman, notifying them of the adoption of the Plan of Conservation & Development.

Chairman Smith requested that he submit the letter to Barbara Whitaker to be put on Town letterhead. Once complete, she can contact Chairman Smith requesting his signature.

### **9. Any other business added to the agenda by 2/3 vote of the Commission**

None

### **10. Enforcement Report**

Curtis Bosco, Z.E.O. reviewed his enforcement report with the Commission. He stated that the real estate signs immediately came down at Falcon Crest once the owner was made aware of the violation. He explained that a variance was granted for the addition at 63 Atwood Street. Last year he received a written complaint, from a bank that owned 4 lots on a street off of Washington Drive, about the homeowner across from the first lot parking a triaxle dump truck on his property. Since that time, a builder has purchased said lots and had a proposed buyer back out of the contract for that very reason. He discussed this issue with Edward St. John, First Selectman, and they are working to find a resolution to the problem. An individual is interested in purchasing a lot on Turnpike Drive which will require some blasting and processing of material, and he anticipates a formal application to be submitted in the near future. He also informed the Commission that there is a new lessee (Meet Me Here Restaurant & Bar) at the old Milano Restaurant. All members of the Commission agreed that he could sign off on the change of use. A problem exists with the Building Inspector and Town Engineer whereby a Certificate of Occupancy is not being granted in instances when landscaping cannot be completed due to the ground being frozen.

Chairman Smith requested that Z.E.O Curtis Bosco, Town Engineer John Calabrese, and Town Counsel work together to create the language for Landscaping Bonds.

Curtis Bosco, Z.E.O suggested \$3,000.00 for R40 Zone and \$5,000.00 for R80 Zone and that they be made part of the Zoning Regulations.

Chairman Smith stated that as long as it is acceptable with the Board of Selectmen, the Commission would be fine with it.

**11. Adjournment**

**Motion:** to adjourn the meeting at 8:27 p.m. Made by Erika Carrington, seconded by William Stowell. 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

## MIDDLEBURY ZONING REGULATIONS

### PROPOSED AMENDMENT TO:

#### Article I Section 6.1.6

6.1.6 Commercial carwash facilities except as permitted in §31.4.4 and §34.4.4 of these Regulations.

#### Article III (Section 31.4.4 – Commercial District CA-40 – under special exception uses)

##### 31.4.4 D:

1. As an additional accessory use to a motor vehicle dealership - Commercial car wash facilities which are defined as full service automobile facilities, but specifically excluding any self-wash activities shall be allowed;
2. Commercial car wash facility shall be limited to vehicles of less than 10,000 pounds gross vehicle weight;
3. To be eligible for this use in this zone, the subject parcel must contain a minimum of 2.00 acres;
4. Operation of a commercial car wash facility as an accessory use shall be designed not to allow stacking of vehicles onto a public right-of-way or allow hazardous conditions such as ice on a public right-of-way.