



TOWN OF MIDDLEBURY

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

May 5, 2016 REGULAR MEETING MINUTES

MEMBERS PRESENT

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

MEMBERS ABSENT

ALTERNATES PRESENT

Paul T. Babarik
Jeffrey Grosberg

ALTERNATES ABSENT

Christian Yantorno

ALSO PRESENT

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

CALL TO ORDER

Chairman Smith called the meeting to order at 7:34 p.m.

ROLL CALL AND DESIGNATION OF ALTERNATES

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

PUBLIC HEARING

1. Christopher & Margaret LaBelle/208 Joy Road-Application for a Special Exception for an in-law accessory apartment (Application #2016-2-3)

Chairman Smith called the Public Hearing to order at 7:35 p.m. He read the Legal Notice published in Voices on 4-20-16 & 4-27-16 for the record.

Chris LaBelle explained to the Commission that he would like to have his 90 year old mother move into his home. He would like to finish the basement to include a full kitchen, bathroom, family room and bedroom. There will be no change to the front of the house and it has a walkout basement.

Motion: to close the Public Hearing at 7:38 p.m. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

2. Peter Scribner/92 Turnpike Dr.-Application for a Special Exception for an Excavation & Grading Permit (Application #2016-4-1)

Chairman Smith called the Public Hearing to order at 7:39 p.m. He read the Legal Notice published in Voices on 4-20-16 & 4-27-16 for the record. He also confirmed receipt of Brian Miller's Memorandum dated 5-3-16 which pertains to the Site Plan portion of the application.

There was no one present on behalf of the applicant.

Motion: to continue the Public Hearing to 6-2-16. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

3. Raymond & Panagiota Albini/300 Benson Rd.-Applications for Special Exceptions for a funeral home, crematory, cremation garden, columbarium, & monument fabrication & sales; and an Excavation & Grading Permit (Application 2016-4-2)

Chairman Smith called the Public Hearing to order at 7:41 p.m. He read the Legal Notice published in Voices on 4-20-16 & 4-27-16 for the record. He also confirmed receipt of the Engineering Reviews submitted by John Calabrese, P.E. dated 5-2-16 and Brian Miller's Memorandum dated 4-29-16.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. In November of 2015, this Commission approved an Amendment to the Regulations, specifically Section 42.4.5.

For the record, he submitted the following documentation:

1. Email dated 5-5-16 from Anthony Bruno, Chief of Middlebury Fire Department indicating that he has no comments or concerns with respect to the application;
2. Water Pollution Control Authority Meeting Minutes of 12-15-15 indicating the Commission's approval for the capacity application of 1000 gallons per day;
3. Architectural Review/Memo to Terry Smith, Chairman, Planning & Zoning Commission dated 4-26-16 from Terry McAuliffe, Chairman of the Economic & Industrial Development Commission indicating said Commission's approval of the proposed building design, site plan, and concept of a future crematory garden for future onsite burial;
4. Email from Gil Roberts, RS of the Torrington Health District dated 4-20-16 indicating that they have no regulatory jurisdiction over construction as the proposed building will be served by Public Water and Sanitary Sewer;
5. Email dated 4-13-16 from Jack Proulx, Fire Marshal indicating that he has no objection to the site plan;
6. Letter dated 4-12-16 from Francis Dabbo, Acting Chief of Police indicating that he did not observe any line of site issues or traffic concerns;
7. Conservation Commission Special Meeting Minutes dated 12-29-15 which contains a Resolution of Approval of the plans submitted.

Brian Baker, P.E. of Civil One, 43 Sherman Hill, Suite D-101, Woodbury, CT 06798 reviewed the plans with the Commission. The 10,000 square foot building will have 67 parking spaces on site. There will be 3 bays of parking in front with adequate circulation around the building and additional parking in the rear. The site is relatively flat and it is a balanced site from an earthwork standpoint. Material will be excavated from the northern side and will be utilized as fill on the lower side with maximum cuts of approximately 6 feet deep. Blasting is not expected. Approximately 6,250 cubic yards of material will be moved around the site and there will be no earthen material brought on or off the site. Only construction materials will be brought on site like processed gravel, asphalt, storm drain catch basins, etc. Storm drainage has been divided into and flow into multiple different areas and be treated with infiltration rain gardens thus protecting the surrounding wetlands.

Attorney McVerry stated that the Conservation Commission requested that the applicant save 2 significant trees that are on site to which they revised the plans in order to save the trees at their request.

Brian Baker, P.E. also confirmed that wetlands mitigation will be performed by removing invasive species and replacing with native species. In addition, there will be full mounted lights in the parking lot, 3 lights coming down the driveway and some wall mounted lights on the building. All will be full cutoff LED fixtures. There will be no light pollution. All utilities will be buried below ground under the driveway with the exception of sanitary sewer which will run out the back. There will be a one-way driveway going out to the south past the cremation garden but will not be lit due to the fact that it will only be used during the day time.

Attorney McVerry stated that of the 33.16 acres, 20.75 acres is wetlands. He also confirmed that there are no plans for a cemetery at this point but rather a cremation garden.

Ray Albini of 148 Upper Whittemore Road confirmed that per state law, a cemetery is not allowed on the same property as a funeral home.

Brian Baker, P.E. elaborated on rain gardens and described them as small area low basins which only hold 1 foot of water and infiltrate the water into the ground so that it will slowly recharge back into the wetlands. On appearance, they look like a landscaped depression and must be maintained typically on an annual basis.

Attorney McVerry stated that the nearest residence is approximately 500 feet from the nearest residence and that the columbarium will be inside the building. He also confirmed that the applicant plans to return to this Commission for the portion designated for monument fabrication & sales as well as for a Special Exception for Signage.

Brian Baker, P.E. stated that the hours of operation for the Excavation & Grading Permit will be Monday – Saturday, 6:30 a.m. – 6:00 p.m.

John Calabrese, P.E. briefly reviewed his Engineering Reviews dated 5-2-16.

Attorney McVerry addressed Brian Miller's Memorandum dated 4-29-16 and confirmed that all concerns have been or will be met. Planning & Zoning approval must be granted before the applicant goes to the State which they intend to do should this Commission approve the application.

Motion: to close the Public Hearing at 8:14 p.m. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

Chairman Smith then requested a brief recess.

Chairman Smith called the regular portion of the meeting to order at 8:24 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

4. Discussion of the Minutes of the Public Hearings & Regular Meeting held on April 7, 2016

Motion: to approve the Minutes of the Public Hearings and Regular Meeting held on April 7, 2016 as submitted. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

5. Discussion of the Minutes of the Special Meeting held on April 21, 2016

Motion: to approve the Minutes of the Special Meeting held on April 21, 2016 as submitted. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

OLD BUSINESS

6. Christopher & Margaret LaBelle/208 Joy Road-Application for a Special Exception for an in-law accessory apartment (Application #2016-2-3)

Motion: to approve the Application for a Special Exception for an in-law accessory apartment. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

7. Peter Scribner/92 Turnpike Dr.-Application for a Special Exception for an Excavation & Grading Permit (Application #2016-4-1)

Discussion was tabled.

8. Peter Scribner/92 Turnpike Dr.-Application for Site Plan Approval

Discussion was tabled.

Chairman Smith requested that the following motions be made in the following order:

10. Raymond & Panagiota Albini/300 Benson Rd.-Applications for a Special Exception for a funeral home, crematory, cremation garden, columbarium, & monument fabrication & sales

Motion: to approve the Application. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

9. Raymond & Panagiota Albini/300 Benson Rd.-Applications for a Special Exception for an Excavation & Grading Permit (Application 2016-4-2)

Motion: to approve the Application subject to the conditions stated in Calabrese Engineering Memo dated 5-2-16. Made by Joseph Drauss, seconded by William Stowell. Unanimous Approval.

Raymond & Panagiota Albini/300 Benson Rd.-Application for Site Plan Approval

Motion: to Approve the Application per the following conditions:

1. A bond satisfactory to the Board of Selectmen;
2. A separate Landscape Bond;
3. The report of Calabrese Engineering dated 5-2-16;
4. Waiver of the Traffic Report requirement.

Motion: Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

NEW BUSINESS

11. Town Attorney – Section 8-24 Referral for the lease of the library basement

Attorney Dana D'Angelo reviewed the lease proposal for the library basement submitted by Attorney Timothy Sullivan and Attorney Jerry Anastasio. They have requested a 10 year lease with two 5 year options at a beginning rent of \$2,800.00 per month with 2% increases each year during the 10 year term. This was moved by the Board of Selectmen for this Commission's approval. The only change is that the Board of Selectmen asked

that the start date of the lease be moved from October 1, 2016 to September 1, 2016. The attorneys have mostly business, real estate and some criminal clients. While she is not certain of the percentage of their practice that handles criminal cases, it is her understanding that it is a low amount. There will be 2 lawyers and 2 staff members.

Jeffrey Grosberg voiced his concerns with the respect to said clientele going to the library where children and other members of the public frequent.

Attorney Dana D'Angelo stated that should this Commission send it back with an affirmative vote, it will then go to a Town Meeting and the 2 attorneys plan to be present.

Matthew Robison stated that it seems somewhat compatible and the town could use the income.

While some members of the Commission agreed that Mr. Grosberg's concerns were valid, Chairman Smith said those issues should be brought up at the Town Meeting.

Attorney Dana D'Angelo stated that she will be sure the attorneys are prepared to answer the questions.

Chairman Smith read the Resolution for the record.

Motion: to approve the attached Resolution. Made by Joseph Drauss, seconded by Matthew Robison. Unanimous Approval.

OTHER BUSINESS

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

None

13. Enforcement Report

Curtis Bosco, Z.E.O. reviewed his enforcement report with the Commission. He received a complaint from a woman on Three Mile Hill Road regarding a blight issue. He in turn sent a letter to the home owner and will update the Commission next month. White Avenue and Porter Avenue seem to be problematic with respect to blight issues as well. An individual interested in purchasing the old St. John of the Cross rectory questioned Mr. Bosco about whether or not there would be an issue with him having a tow truck on the property. He has a legitimate business on Baldwin Street in Waterbury.

The Commission didn't seem to have a problem with it as long as the tow truck is parked in the garage and that towed vehicles are not placed on the property.

John Calabrese, P.E. wanted direction from the Commission regarding the desired spacing between the bollards that were requested to be put on site for Village Square Associates located at 530 Middlebury Road.

The Commission members agreed that 4 feet apart would be adequate.

14. Adjournment

Motion: to adjourn the meeting at 9:00 p.m. Made by Matthew Robison, seconded by Erika Carrington. 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.
Ken Long, Chairman, Z.B.A.
Attorney Dana D'Angelo
Larry S. Hutvagner, CFO
Rob Rubbo, Director of Health
Mary Barton

RESOLUTION**Regarding the lease of 2,770 square feet in the lower level of the Middlebury Library, 30 Crest Road, Middlebury by the Town of Middlebury to Attys. Timothy Sullivan and Jerry Anastasio**

After review of the offer to Lease, Draft Lease Agreement and other supporting documents, the Planning and Zoning Commission of the Town of Middlebury finds that would be in the Town of Middlebury's best interest to lease of 2,770 square feet in the lower level of the Middlebury Library, 30 Crest Road, Middlebury by the Town of Middlebury to Attys. Timothy Sullivan and Jerry Anastasio. Therefore,

BE IT RESOLVED:

That in accordance Connecticut General Statute §8-24, the Planning and Zoning Commission of the Town of Middlebury recommends lease of 2,770 square feet in the lower level of 30 Crest Road, Middlebury by the Town of Middlebury to Attys. Timothy Sullivan and Jerry Anastasio. Said lease shall be for a period of 10 years with 2.5 year options at a beginning rent of \$2,800.00 per month. This recommendation shall be submitted to the Board of Selectman.