



# TOWN OF MIDDLEBURY

*Planning & Zoning Commission  
1212 Whittemore Road  
Middlebury, Connecticut 06762  
(203) 577-4162 ph  
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## **September 1, 2016 REGULAR MEETING MINUTES**

### **REGULAR MEMBERS PRESENT**

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

### **REGULAR MEMBERS ABSENT**

None

### **ALTERNATE MEMBERS PRESENT**

None

### **ALTERNATE MEMBERS ABSENT**

Paul T. Babarik  
Christian Yantorno  
Jeffrey Grosberg

### **ALSO PRESENT**

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

### **CALL TO ORDER**

Chairman Smith called the meeting to order at 7:30 p.m.

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

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

## **PUBLIC HEARINGS**

### **1. Maxxwell Sunshine, LLC/2160 Straits Turnpike – application for a Special Exception (Application #2016-7-1) (continued)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant Maxxwell Sunshine, LLC and Patrick Bayliss who is the Principal of County Line. He submitted a letter dated 9-1-16 requesting a continuance of the Public Hearing and agreeing to an extension pursuant to § 8-7d of the Connecticut General Statutes. Said request is due to the fact that they do not have a response from the Zoning Board of Appeals or the Conservation Commission.

**Motion:** to continue the Public Hearing on 10-6-16. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

### **2. Crossroads Middlebury, LLC/900 Straits Turnpike-application for a Special Exception for a Daycare pursuant to Section 31.4.1 (Application #2016-7-2) (continued)**

Chairman Smith called the Public Hearing to order at 7:32 p.m. and announced Regular Members Smith, Stowell, Carrington and Robison as present.

There was no one present.

**Motion:** to close the Public Hearing. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

### **3. 40 Middlebury Road, LLC/40 Middlebury Road-Application for a Special Exception for a sign (Application #2016-7-4) (continued)**

Chairman Smith called the Public Hearing to order at 7:33 p.m. He announced Regular Members Smith, Stowell, Carrington, Drauss and Robison as present.

Attorney McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. He questioned whether or not a Special Exception was necessary based on the fact that the sign that is there is essentially the same size as the accounting sign but just in a different location.

Chairman Smith stated that he did inquire with Town Counsel as to whether or not a bigger sign would increase the nonconformity. It was confirmed to him that the proposed cube sign they were previously requesting was definitely an expansion of a nonconformity. As a result, the question now is if they take the existing sign and move it to the front of the building and just change the wording, would they need a Special Exception. It is his opinion that a Special Exception is not required.

Matthew Robison questioned the lighting of the sign.

Attorney McVerry stated that if the Commission did not want interior illumination, that they would just put spotlights.

Chairman Smith agreed with the spotlights, recommended that they withdraw the application and directed Mr. Bosco, Z.E.O. to issue the permit.

Attorney McVerry agreed to deliver a withdrawal letter to Mr. Bosco by 9-7-16.

#### **MINUTE APPROVAL**

**4. Discussion of the Minutes of the Public Hearings & Regular Meeting held on August 4, 2016**

**Motion:** to accept the Minutes of the Public Hearings & Regular Meeting held on August 4, 2016 as submitted. Made by William Stowell, seconded by Joseph Drauss.

**5. Discussion of the Minutes of the Special Meeting held on August 18, 2016**

**Motion:** to approve the Minutes of the Special Meeting held on August 18, 2016 as submitted. Made by Erika Carrington, seconded by William Stowell.

#### **OLD BUSINESS**

**6. Maxwell Sunshine, LLC/2160 Straits Turnpike – application for a Special Exception (Application #2016-7-1)**

Discussion was tabled.

**7. Crossroads Middlebury, LLC/900 Straits Turnpike-application for a Special Exception for a Daycare pursuant to Section 31.4.1 (Application #2016-7-2)**

**Motion:** to deny the application as the play area does not conform to Section 25.10.2 E 2 Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

**8. 40 Middlebury Road, LLC/40 Middlebury Road-Application for a Special Exception for a sign (Application #2016-7-4)**

Application was withdrawn per the request of the applicant.

**NEW BUSINESS**

**9. Frank Perrella – Informal discussion regarding Regan Road and Section 24/Senior Residential District**

Frank Perrella of 25 Edgar Road thanked the Commission for giving him the opportunity to speak. Section 24.7.2 regarding setbacks for Senior Residential causes him great concern. Said section states “No building may be placed within 20 feet of an existing property line or within 100 feet of an existing dwelling on an adjacent parcel as determined at the time of the application.” He feels that 20 feet is ridiculous when it comes to privacy and to keep the environment the way that it has been for eternity. Therefore, he was seeking guidance from the Commission as to what he should do to enhance to the existing 20 feet requirement.

Chairman Smith stated that he is unsure as to whether someone can ask for a zone amendment on someone else’s property. He feels that is a question should be answered by an attorney. There was a stipulated court agreement on that property as for the development and he is unsure if it is still viable.

Richard Mollica of 15 Edgar Road also voiced his concerns. He also made mention of revisions to Section 68 being done at the request of the Planning & Zoning Commission after a Public Hearing in 1985.

Chairman Smith again suggested that they seek legal counsel for guidance.

William Stowell suggested that they also take a look at Section 74.1.

9-1-16

## **OTHER BUSINESS**

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

#### **West Lake/West Shore discussion**

**Motion:** to add West Lake/West Shore discussion to the agenda. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

Eileen Woods stated that the cottage Unit Alterations Rule is a draft and the Committee Report and the Rule were sent ahead of time. Their goal is to make a rule for cottage unit alterations that would preserve the nature of the West Shore at Lake Quassapaug while allowing people to enlarge their cottages. In addition, they have gotten nothing but positive feedback from the cottage owners so far.

Chairman Smith stated that he has only had the opportunity to skim over the documents.

Erika Carrington questioned the minimum sideline setbacks and the imaginary lines.

Chairman Smith stated that he believes the imaginary lines were drawn on the map. He questioned the waiver section.

Eileen Woods clarified that instead of just providing for waivers in general, it spells it out and is really geared towards the lots that are very small or very large. The setbacks would increase with the size of the building that is put on the lot.

Chairman Smith went on to request some time for the members to look it over and compare it to what is in there. He offered to put it on the October agenda.

Eileen Woods indicated that those that want to make improvements feel that the existing rule of a 30% footprint increase isn't satisfying especially to those that have large lots.

Chairman Smith insisted that what is being counted in the footprint needs to be clarified.

### **11. Enforcement Report**

Curtis Bosco, Z.E.O. informed the Commission that Toll Brothers had a very busy month.

**12. Adjournment**

**Motion:** to adjourn the meeting at 8:04 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.  
Ken Long, Chairman, Z.B.A.  
Attorney Dana D'Angelo  
Larry S. Hutvagner, CFO  
Rob Rubbo, Director of Health  
Mary Barton