



# TOWN OF MIDDLEBURY

## *Zoning Board of Appeals*

### MINUTES

### ZONING BOARD OF APPEALS MEETING

## Wednesday, October 5, 2016 – 7:30 p.m.

Shepardson Community Center Room 26  
1172 Whittemore Road

**Present:** Ken Long, Chairman  
Bill Bellotti, Vice Chairman  
Ray Caruso  
Brian Proulx  
Candice Graziano

**Also Present:** Rachel Primus, Recording Clerk

#### **Excused**

**Absent:** D.J. Mahoney, Alternate  
Linda Herrmann, Alternate  
Bernie Evans, Alternate

#### **Call to Order with Pledge of Allegiance**

The meeting was called to order by Ken Long at 7:30 p.m.

#### **Seating with Regular Members**

The regular members present were seated.

#### **Approval of August 3, 2016 Zoning Board of Appeals Meeting Minutes**

**VOTED:** Unanimously with a motion by Bill Bellotti and seconded by Ray Caruso to **APPROVE** the August 3, 2016 minutes as presented.

#### **Continued Public Hearing**

- 1. Appeal # 3173 – Patrick Bayliss 2160 Straits Turnpike** – Seeking a variance from Section 11 of the Middlebury Zoning Regulations to construct a 2100 sq ft commercial car wash in front of existing building less than 75 feet from CT Route 63. The hardship is the required set back of 75 ft from CT Route 63, the existing building on the site is 59.41 feet from the street line; in rear of building, the topography prevents any additional construction and safety concerns prevent placing car wash within existing building, leaving the area in front of the existing building as the only feasible area – 39.73 feet off the road.

Ken Long read the legal notice into the record, and noted the board had received a revised set of plans.

Attorney Michael McVerry, 35 Porter Ave, representing Maxwell Sunshine LLC, the owner of the property Patrick Bayliss of County Line Auto. Mr. McVerry noted they were here at the August meeting and discussed the plans for the application, but since then the plans have been revised. He stated there will be a 21ft difference from the original proposal. He said this was changed because of the access

coming in from the road. This will extend the driveway further south allowing for more cars in the que and off of Straits Turnpike. He explained that the site is currently County Line wholesale used cars and that the Zoning Commission had amended their regulations to allow for car washes as an accessory use with an existing dealership. He felt this was the only feasible place in town where a car wash would be allowed if it does get approval. Attorney McVerry noted the regulations call for a 75ft setback. He stated the street card from the assessor's office shows the building was built in 1983. In 1987 the Zoning Commission amended their regulations in Section 11, setbacks on Route 63 and 64 to 75ft. Attorney McVerry handed the board a copy of the June 18, 1987 Zoning Commission meeting minutes. He noted that he can tell the board when the change was made, but there is nothing in the minutes as to why it was changed. He stated the application was in front of the Conservation Commission. He submitted a letter from the Land Trust concerning the drainage off the site. He noted there would be less drainage if the application is approved and that the water and sewer will be connected from Watertown. He stated the Conservation Commission approved the application based on the revised plans. Mr. McVerry handed the Board a letter from Mark VII, the manufacturer of commercial car washes. He also submitted pictures from behind the building showing the ledge. He stated this variance is the only practical place for the car wash.

Mark Lancore, Dymar Engineering, reviewed the plans with the board. He reviewed the issue of the ledge behind the existing building. He noted the application needs to meet DOT standards and they will not be compromising public safety. He noted they are working with Inland Wetlands Commission to reduce the drainage by using a rain garden in front of the property.

Patrick Bayliss stated they have done everything that they feel is environmentally and safety prudent, and that they have improved the property substantially. He stated the only way for the business to thrive is for this addition to go through, and that this is the one option to promote business for this facility. He noted they could not use the existing building and could not move the building back based on the Mark VII letter, stating they wouldn't provide the equipment for safety reasons.

Ken Long showed the published Public Hearing notice from the paper.

**VOTED:** Unanimously on a motion by Brian Proulx and seconded by Bill Bellotti to **CLOSE** the Public Hearing at 7:56 PM

### **Discussion and Consideration**

Brian Proulx stated his concern about the potential of other variance requests because of this one's significance. Ken Long said the board needs to determine if the hardship is significant. There was a discussion regarding the ledge removal. Mr. Long said it is a unique area of town, and not the center of Route 64 commercial zone. He felt there was no other location on the property to put the car wash. He felt the revised plans were solid based on the suggestions and concerns of the Inland Wetland Commission and the ZBA comments. He noted the town has been restricted regarding car washes. He said they would be taking a property that is not tax productive and making it more tax productive.

**VOTED:** On a motion by Bill Bellotti and seconded by Ray Caruso to vote on Appeal #3173

Appeal #3173 was **APPROVED** 04:01

For: Brian Proulx

Ken Long

Bill Bellotti

Candice Graziano  
Opposed: Ray Caruso

**New Business**

None

**New Applications**

None

**Other Business**

None

**Correspondence**

None

**Adjournment**

**VOTED:** Unanimously on a motion by Brian Proulx and seconded by Ray Caruso to

**ADJOURN** the meeting at 8:10 p.m.

These minutes are submitted subject to approval.

Respectfully submitted,

Rachel Primus

Recording Clerk

ZBA Members

CC: Town Clerk, Barbara Whitaker, Z.E.O.