



TOWN OF MIDDLEBURY

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

October 6, 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

Paul T. Babarik
Jeffrey Grosberg

ALTERNATE MEMBERS 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 7:28 p.m.

ROLL CALL AND DESIGNATION OF ALTERNATES

Chairman Smith announced Regular Members Smith, Stowell, Robison and Alternate Members Babarik and Grosberg as present. Regular Members Carrington, Drauss & Alternate Member Yantorno were absent. He appointed Alternate Member Babarik to act in place of absent Regular Member Carrington and Alternate Member Grosberg to act in place of absent Regular Member Drauss.

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. The proposal is for a commercial carwash. In March of 2016, the Planning & Zoning Commission approved the amendment of Section 31.4.4 of the Zoning Regulations to allow a commercial carwash to a motor vehicle dealership as an accessory use. The original Special Exception application had the addition of the building slightly north and the current application has the 95' X 21" addition approximately 21' further south. This change allows for a longer que coming in and out of the property and further away from the vacuum lines. The current proposal is also approximately 2.5 feet lower in grade than the current driveway. He submitted the following documentation for the record:

1. Email dated 10-6-16 from Tony Bruno, Fire Chief indicating his approval;
2. Letter dated 8-23-16 from Francis Dabbo, Acting Police Chief stating he has no line of site or traffic issues;
3. Letter dated 8-3-16 from John Proulx, Fire Marshal stating he has no objection;
4. Letter dated 8-3-16 from Gilbert Roberts, RS, Sanitarian Torrington Area Health District indicating he has no objection;
5. Architectural Review dated 8-23-16 from Terry McAuliffe, Chairman of Economic and Industrial Development Commission indicating their approval;
6. Respective portion of the 9-27-16 Conservation Commission Minutes indicating their approval;
7. Letter dated 8-30-16 from Mark E. Lancor, P.E. of Dymar addressing the review comments of the 8-17-16 letter from Cynthia Rabinowitz, Profession Soil Scientist to Middlebury Land Trust;
8. Letter dated 4-7-16 from Craig M. Dawson and Jim Rennie of Mark VII Equipment;
9. Email dated 7-5-16 from Vincent N. Caterino, Superintendent of Watertown Water and Sewer Authority indicating their capabilities of supplying city water and sewer utilities.

Attorney McVerry added that there will be a decrease in the impervious surface and a decrease in the drainage going offsite. Variance approval was granted by Zoning Board of Appeals on October 5, 2016.

Mark Lancor, P.E. of Dymar in Southbury reviewed the plans with the Commission. He stated that this application has also been under project review with D.O.T. The traffic analysis that was proved for them was not in totality terms a full traffic impact report but basically what they were looking for is a traffic in terms of how the operation of the driveway would work and as well as confirmation in terms of sight lines. All of their requirements and restrictions have been met and the applicant is waiting for the final D.O.T. report. The drainage has been enhanced per the request of the Conservation Commission which includes a bio-swale and raingarden to allow for filtration as well as various plantings. The current well will be abandoned and they will be connecting to Watertown's water and Sewer utilities. The water will be recycled and pumped out two (2) times per year.

John Calabrese, P.E. stated that his prior concerns have since been addressed but suggested that a bond be set by the Board of Selectmen should this Commission decide to approve the application.

Alice Halloran spoke on behalf of Middlebury Land Trust and stated that one of their concerns was with the possibility of rain runoff going into Sperry Pond.

Attorney McVerry confirmed that per the request of the Conservation Commission, the property owner is responsible for providing an annual maintenance report to the Middlebury Wetlands Enforcement Officer.

Richard Mollica requested that the applicant no longer be allowed to park cars on what is now the grass area.

Mark Lancor, P.E. of Dymar stated that the applicant would no longer do so.

Fred O'Neill of Fred's Carwash in Watertown, CT and Norwalk, CT voiced his concerns with respect to the proposed plans. He feels that the queuing area coming in totally inadequate. The proposed carwash can wash between 100-150 cars per hour and added that it's virtually impossible not to have the cars coming out of the exit que not bring a backup onto Straits Turnpike. From an operational standpoint, he strongly suggests that a bypass lane be required. While he is a competitive carwash owner, he's not saying that this property could not have a carwash on it. He just doesn't think he would pick that particular site.

William Stowell questioned if there would be adequate parking for the used cars.

John Calabrese, P.E. confirmed that the 54 spaces would be sufficient.

William Stowell questioned if the applicant would have an objection to a maximum number of cars allowed on the other side and that no cars be allowed on what is now the grass area being made as part of an approval. He also inquired as to the material used for the wall.

Attorney McVerry stated that the applicant would have no issue.

Mark Lancor, P.E. of Dymar stated that it could be a gravity wall, decorative guardrail or any kind of material that would be esthetically pleasing. He also confirmed that there would be no access for one side to the other.

Matthew Robison asked if there was a breakdown lane in the event queuing should backup onto Straits Turnpike.

Mark Lancor, P.E. of Dymar stated that there is no breakdown lane and that D.O.T. regulates Straits Turnpike. He does not feel that there will be a backup issue because people will not wait in a long line at a carwash. It is a matter of convenience and people would prefer to return at a later time rather than wait in a long line.

Chairman Smith disagreed with Mark Lancor based on the fact that he has witnessed cars queued out onto the road at Fred's carwash. He also asked if his previously requested written plan that could be put into the record as to how that applicant would prevent the cars from queuing in the public right of way and how they will prevent icing on the public right of way was available.

Attorney McVerry stated that it was not.

Chairman Smith again requested said plan.

Matthew Robison suggested that only a right hand turn be allowed when exiting.

Mark Lancor, P.E. of Dymar reminded the Commission that the speed of the carwash can be adjusted by one of the 2 employees working the carwash.

Paul Babarik questioned if there was a bypass lane in the carwash in the event someone decides not to go through the carwash.

Patrick Bayliss stated that before you enter, there will be a pay station and way for cars to leave without having to go through the carwash and confirmed it would be shown on the final drawing.

Jeffrey Grosberg voiced his concerns with the right and left hand turn and that having 2 lanes would be more prudent.

Mark Lancor, P.E. of Dymar informed the Commission that the Town of Middlebury has the right to object to something that the D.O.T. suggests and they will take under advisement but it is their right of way and the applicant must do what the D.O.T. requires.

Chairman Smith questioned the possibility of salt remaining in the recycled water.

Patrick Bayliss confirmed that there is a small percentage of the water that cannot be recycled. He also added that Countyline has been a steward of the area of five (5) decades and that they have a great interest in being a valid and continued part of the community. The aesthetics of the building right now are not very good and they are going to do everything they can to create a safe and environmentally friendly and aesthetically pleasing environment.

Chairman Smith expressed his concerns with the fact that the final drawings have not been submitted. He questioned the possibility of closing the Public Hearing but not vote on it this evening.

Attorney McVerry indicated that there is sufficient time per the statute to extending the Public Hearing based on the Chairman's requests.

Chairman Smith agreed.

William Stowell also requested a plan for the vacuum station and how those cars will be handled with the que of cars exiting.

Motion: to continue the Public Hearing on 11-3-16. Made by Matthew Robison, seconded by William Stowell. Unanimous Approval.

Chairman Smith called the regular portion of the meeting to order at 8:14 p.m.

MINUTE APPROVAL

2. Discussion of the Minutes of the Public Hearings & Regular Meeting held on September 1, 2016

Motion: to approve the Minutes of the Public Hearings & Regular Meeting held on September 1, 2016 as submitted. Made by Matthew Robison, seconded by William Stowell. Unanimous Approval.

OLD BUSINESS

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

Discussion was tabled.

NEW BUSINESS

4. First Selectman Edward B. St. John – 8-24 Referral as it relates to the Capital Plan

First Selectman Edward B. St. John submitted a Notice of Special Town Meeting to be held on October 27, 2016 and a Referendum Vote on November 8, 2016 for the record. Said attached document is basically a summation of the Capital Plan. They are not proposing any modifications to the buildings but plan to take mechanicals and roofs and do a tremendous amount of maintenance on them that are long overdue. There have been five (5) public information meetings pertaining to this Capital Plan. He feels the plan has been well received by the community and has been given some excellent public comments including ways to improve on what is being proposed. They have been noted in the record. The Board of Selectmen will be calling for a Town Meeting on October 27, 2016 at 6:30 p.m. at the Shepardson Community Center to move it to a referendum vote which would be held on November 8, 2016. It will appear on the Presidential ballot and will include three (3) questions. All the pertinent information is available on the Town website and reminded all that they are not proposing any new buildings. He looked at the affordability portion of what the Town could afford to do. It will be done with existing funds and will not see a spike in the budget. The annual payment for all of the projects would be about \$700,000.00 per year. The Town has very little bonded indebtedness, has great bond rating, and owes very little money and will in fact all be paid off in 6-7 years. There's a big component of this plan that is not shown as part of the budget, the school budget which is 70% of the Town's operating budget. While there will be no spike as a result of the Capital Plan, he cannot guarantee that there will not be a spike somewhere in the budget that is not part of this plan. The roofs of the Town Hall and Shepardson Community building are reaching their 85 year old threshold. The roads southwest and southeast of the Town need a lot of work. He is not proposing to do a total rebuilt but rather plans to go through the infrastructure and replace bad drainage where needed. He believes that there will be one more public information meeting which would be held sometime in the last week of October. All are welcome to attend. All underground fuel tanks will be removed as well and all fueling will be done at DPW.

He requested the support of the Planning & Zoning Commission.

Matthew Robison questioned the bond interest rate.

First Selectman Edward B. St. John believes that they would be able to borrow the money at less than 2% and attributes that to the Town's superior rating. However, he is aware of the fact that there are some issues with some of the State's largest municipalities. The larger municipalities may be forced to do something similar to Waterbury where they were forced into this and an Oversight Board took over the City's finances. This concerns him because if that does happen while Middlebury is in the process, the interest rates may spike.

Motion: to recommend approval to the Board of Selectmen of the notice of a Special Town Meeting of the Town of Middlebury to be held on 10-27-16 per Connecticut General Statute 8-24. Made by Paul Babarik, seconded by Matthew Robison. Unanimous Approval.

5. Frederick L. & Patricia M. Cohn and Sharon S. Bosco/163 Spring Road and 167 Upper Whittemore Road – Review & discussion of proposed lot line revision

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck explained that Dr. & Mrs. Cohn own the property on Spring Road which is adjacent to the property owned by Mrs. Bosco. The Cohns realized that a portion of their lawn was actually owned by Mrs. Bosco. They are proposing an equal sized land sway between Mrs. Bosco and the Cohns. Curtis Bosco, ZEO, felt that it wasn't appropriate for him to sign off on this which is why it was brought before this Commission.

Motion: to have the Chairman sign the Lot Line Revision. Made by Paul Babarik, seconded by William Stowell. Unanimous Approval.

OTHER BUSINESS

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

Chairman Smith request to skip this item temporarily and move on to item #7.

7. Mitchell I. Quain/1 Bristol Road – Submission of Lot Line Revision

Curtis Bosco, ZEO stated that Mr. Quain is in the process of conveying a lot to Dr. & Kimberly Gilbert who are purchasing a house that is on Lake Quassapaug. In the process
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of doing a survey of the property, it was found that Mr. Quain's fence which was put up approximately ten (10) years ago, was actually on the property that he's about to sell. Therefore, he wants to do a lot line revision. Both lots will still conform.

Chairman Smith confirmed that the lot line revision was acceptable.

8. Frank Perrella/25 Edgar Road- Informal discussion regarding Senior Residential District

Frank Perrella of 25 Edgar Road thanked the Board for allowing him to speak. He requested that a discussion be carried over to a Public Hearing pursuant to Section 24, Senior Residential District. They are looking for consistency and a recommendation for revising Section 24.

Motion: set a Public Hearing for 11-3-16. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

Chairman Smith instructed Mr. Perrella to give the application to Curtis Bosco, ZEO.

Curtis Bosco, ZEO questioned Chairman Smith if a fee would be required.

Chairman Smith confirmed that the fee for a Public Hearing would need to be collected.

OTHER BUSINESS

6. 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 Matthew Robison, seconded by Paul Babarik. Unanimous Approval.

Steve Molder of West Shore Owners Association stated that they have an existing regulation and based on recent events, they are seeking to significantly revise the said regulation. He submitted and reviewed a document titled WSOA CUA Summary, October 2016 (see attached) with the Commission. Each of the lot owners pay the same

amount for their lots regardless of size. They are seeking to make it possible for as many people as possible could build a three (3) bedroom home.

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Chairman Smith stated that he read it over a couple of times, listened to his overview and stressed the need for it to be simplified. He also added that the waivers must be in the Regulations in order for this Commission to approve them.

William Stowell agreed that there was a lot being proposed. He suggested that John Calabrese, P.E. get involved.

Matthew Robison suggested that the building inspector be consulted as well.

Chairman Smith recommend that they look at the Regulations and see what kind of modifications exist.

Steve Molder agreed to consult with John Calabrese, P.E. and the building inspector,

A Middlebury resident attempted to address the Commission.

Chairman Smith stated that Curtis Bosco, ZEO talked to him about the resident's issue and Chairman Smith needs to consult with Town Counsel before any information can be given.

9. Enforcement Report

Curtis Bosco, Z.E.O. asked if any of the members had a question regarding his report.

Matthew Robison stated that although it is not on his report, it is his understanding that this Commission approved three (3) islands and six (6) pumps for the Wesson station. It appears that there are four (4) islands going in.

William Stowell clarified that this Commission approved six (6) pumps but never changed and said that they needed to change the plans.

Chairman Smith added that they did not have to change the canopy but is 90% sure that the plans he approved only showed three (3) islands.

Matthew Robison said there is going to be a problem because that is not the way it looks like it is being designed and they should be made aware of it.

Chairman Smith announced that he did tell Curtis Bosco, ZEO before the meeting that he wants to see the plans he signed.

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Curtis Bosco, ZEO stated that he believes the modified site plan had four (4) islands. He also brought up Quassy Amusement Park and the 6-8-15 approval from this Commission concerning their Redemption Center. They are now seeking to replace the existing structure without the cantilever.

Chairman Smith said it is fine as long as they are not increasing the size

10. Adjournment

Motion: to adjourn the meeting at 9:02 p.m. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Edith Salisbury, Town Clerk

cc: P&Z Commission Members
Mary Barton, 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

RECEIVED 10-6-16

NOTICE OF SPECIAL TOWN MEETING
TOWN OF MIDDLEBURY
TO BE HELD ON OCTOBER 27, 2016

(AND A REFERENDUM VOTE ON NOVEMBER 8, 2016
WITH RESPECT TO ITEMS 1, 2, AND 3)

Notice is hereby given that a Special Town Meeting of the electors and citizens qualified to vote in Town Meetings of the Town of Middlebury, Connecticut will be held at the **Shepardson Community Center Auditorium, 1172 Whittemore Road, Middlebury CT**, on **October 27, 2016, at 6:30 P.M.**, for the following purposes:

1. To receive communication from the Boards of Selectmen and Finance with respect to, and to consider and act upon the resolution entitled "RESOLUTION APPROPRIATING \$2,950,000 FOR THE MIDDLEBURY CAPITAL ASSET REVITALIZATION PROGRAM AND AUTHORIZING THE ISSUE OF \$2,950,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE"
2. To receive communication from the Boards of Selectmen and Finance with respect to, and to consider and act upon the resolution entitled "RESOLUTION APPROPRIATING \$1,200,000 FOR THE PAY AS YOU GO PORTION OF THE MIDDLEBURY CAPITAL ASSET REVITALIZATION PROGRAM TO BE MET BY LEVYING A TAX APPORTIONED IN \$400,000 ANNUAL INSTALLMENTS OVER EACH OF THE NEXT THREE FISCAL YEAR BUDGETS, COMMENCING JULY 1, 2017"
3. To receive communication from the Boards of Selectmen and Finance with respect to, and to consider and act upon the resolution entitled "RESOLUTION APPROPRIATING \$4,000,000 FOR THE MIDDLEBURY ROAD IMPROVEMENT PROGRAM (2016) AND AUTHORIZING THE ISSUE OF \$4,000,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE"

The Board of Selectmen voted, pursuant to the Charter and General Statutes, that the vote on the each of the above resolutions (items 1, 2 and 3) of the call of the Special Town Meeting to be held on October 27, 2016, be removed from the call of such meeting and adjourned to a referendum vote at Adjourned Town Meeting to be held on November 8, 2016. As a result, the Special Town Meeting will be held to only consider and discuss the resolutions, not to vote on them. The questions to be voted upon at the referendum shall be stated as follows:

1. Shall the resolution entitled "RESOLUTION APPROPRIATING \$2,950,000 FOR THE MIDDLEBURY CAPITAL ASSET REVITALIZATION PROGRAM AND AUTHORIZING THE ISSUE OF \$2,950,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE, as adopted by the Boards of Selectmen and Finance, be approved? YES/NO"

The ballot label for said question shall read as follows:

"Shall the \$2,950,000 appropriation and bond issuance authorization for the Middlebury Capital Asset Revitalization Program, consisting of the improvement and repair of Police Department, Town Hall, Shepardson Community Center, Fire Department Headquarters, Transfer Station and Public Works, buildings and facilities, as adopted by the Boards of Selectmen and Finance, be approved? YES/NO"

2. Shall the resolution entitled "RESOLUTION APPROPRIATING \$1,200,000 FOR THE PAY AS YOU GO PORTION OF THE MIDDLEBURY CAPITAL ASSET REVITALIZATION PROGRAM TO BE MET BY LEVYING A TAX APPORTIONED IN \$400,000 ANNUAL INSTALLMENTS OVER EACH OF THE NEXT THREE FISCAL YEAR BUDGETS, COMMENCING JULY 1, 2017, as adopted by the Boards of Selectmen and Finance, be approved? YES/NO"

The ballot label for said question shall read as follows:

"Shall the \$1.2 million appropriation for the pay as you go portion of the Middlebury Capital Asset Revitalization Program, to be paid by including \$400,000 as a fixed charge in the Town's budget for 3 years starting with the July 1, 2017 budget, to pay for improvements and repairs to the Historical Building, Library, Police Station, Town Hall, Shepardson Community Center, Parks and Recreation facilities, Fenn Farm, Fire Department Headquarters and Station 2, Transfer Station and Public Works Facilities, as adopted by the Boards of Selectmen and Finance, be approved? YES/NO"

3. Shall the resolution entitled "RESOLUTION APPROPRIATING \$4,000,000 FOR THE MIDDLEBURY ROAD IMPROVEMENT PROGRAM (2016) AND AUTHORIZING THE ISSUE OF \$4,000,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE, as adopted by the Boards of Selectmen and Finance, be approved? YES/NO"

The ballot label for said question shall read as follows:

“Shall the \$4,000,000 appropriation and bond issuance authorization to repair and improve Middlebury Roads, as adopted by the Boards of Selectmen and Finance, be approved? YES/NO”

The voting will be by paper/electronic ballot. Those desiring to vote for the question shall fill in the oval on the ballot at “YES”. Those desiring to vote against the question shall fill in the oval on the ballot at “NO”.

The full text of the aforesaid resolutions and questions are on file, open to public inspection, in the office of the Town Clerk. The votes on the aforesaid resolutions are taken under the authority of Chapter 152 of the General Statutes and Section 904 of the Town Charter.

The polls will be open during the hours between 6:00 A.M. and 8:00 P.M. and electors shall cast their votes at **Shepardson Community Center, 1172 Whittemore Road, Middlebury CT.**
District 1 Downstairs
District 2 Upstairs

Election Day Registration Voting will be at the Town Hall, 1212 Whittemore Road, Middlebury, CT.

Qualified Voters pursuant to Section 7-6 of the Connecticut General Statutes, as amended, shall cast their votes at **Room 4, Shepardson Community Center, 1172 Whittemore Road, Middlebury, CT.**

A Qualified Voter is any citizen of the United States of the age of eighteen years or more who, jointly or severally, is liable to the Town of Middlebury for taxes assessed against him or her on an assessment of not less than One Thousand Dollars on the last completed Grand List of the Town, or who would be so liable if not entitled to an exemption under subdivisions (17), (19), (22), (23), (25) or (26) of Section 12-81 of the Connecticut General Statutes, as amended.

Absentee ballots will be made available in accordance with law. Absentee ballots and Election Day Registration ballots will be counted at the following central location:
Conference Room, Town Hall, 1212 Whittemore Road, Middlebury, CT

Dated at Middlebury, Connecticut this ____ day of _____, 2016.

Edward St. John
First Selectman

Michael J. McCormack
Board of Selectmen Member

Elaine M. R. Strobel
Board of Selectmen Member

RECEIVED 10-6-16

WSOA CUA Summary
October 2016

1. Big Picture

- a. Preserve rustic nature of the lake
- b. Control building density
- c. Find the balance in preserving open space while allowing members to improve their cottage
- d. Members paid same price for unit, capital assessment, and annual dues
- e. Focus on open space between homes
- f. Preserve size criteria from existing rule, while allowing specific waivers
- g. Changes:
 - i. Clearer definitions
 - ii. Waivers for size & location
 - iii. Ancillary items (docks, sheds, etc)

2. Details

- a. Changes from April 2015
 - i. Application: Requirements adjusted depending on scope of the project
 - ii. Concerned about building mass ... exteriors, not interiors
- b. Footprint: Roofed structure supported by walls, posts attached to the dwelling. Includes garage (attached & detached)
- c. Floor Area: Interior access, heated/unheated, finished/unfinished
 - i. Attics – no permanent staircase or dormers (exclude from floor area)
 - ii. Area above the eaves --count floor area with greater than 4' kneewall
 - iii. Basements –exclude headroom <6'; count proportion of exposed basement
- d. 2 Categories of Waivers:
 - i. Location waivers (can NOT be used with size waivers)
 - ii. Waivers for Size:

Footprint (SFT)	Floor Area (SFT)	Sideline Setback (ft)	Max Height (ft)
1000	2500	15	35
1500	2000	20	30
2000	2500	25	25
2500	2500	30	20

iii. Waivers for Location

- 1. Improve location
 - 2. Sideline net area
 - 3. Inside 15'/neighbor
 - 4. 150' from lake
 - 5. Shed on boundary/neighbor
-