



## **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission  
1212 Whittemore Road  
Middlebury, Connecticut 06762  
(203) 577-4162 ph  
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### **JULY 3, 2014 REGULAR MEETING MINUTES**

#### **MEMBERS PRESENT**

Terry Smith, Chairman  
Erika Carrington

#### **MEMBERS ABSENT**

William Stowell, Vice Chairman  
Matthew Robison

#### **ALTERNATES PRESENT**

Ron Kulpa  
Paul T. Babarik

#### **ALTERNATES ABSENT**

#### **ALSO PRESENT**

Brian Miller  
John Calabrese, P.E.  
Curtis Bosco, ZEO

#### **CALL TO ORDER**

Chairman Smith called the Regular Meeting of the Middlebury Planning & Zoning Commission to order at 7:29 P.M.

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

Chairman Smith announced Regular Members Smith, Carrington, and Alternate Members Kulpa and Babarik as present. He appointed Paul Babarik to act in place of absent member William Stowell and Ron Kulpa to act in place of absent member Matthew Robison.

## **PUBLIC HEARING**

- 1. Pomeroy Enterprises, LLC/Garrett Moore-891 Straits Turnpike-Application for Site Plan Approval (Application #2014-6-3)**
- 2. Pomeroy Enterprises, LLC/Garrett Moore-891 Straits Turnpike-Application for an Excavation & Grading Permit pursuant to Section 64 (Application #2014-6-4)**

Chairman Smith announced that the above Public Hearings would run simultaneously. For the record, he read the Legal Notice published in Voices on 6-18-14 & 6-25-14 and The Bee Intelligencer on 6-27-14. He also read correspondence from Mike Kenausis, Chairman of the Economic and Industrial Development Commission indicating their approval of the proposed design.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of Garrett Moore. He submitted copies of the following for the record:

1. Water Pollution Control Authority, June 17, 2014 Meeting Minutes;
2. Correspondence from Mike Kenausis, Chairman of the Economic and Industrial Development Commission;
3. Email dated 7-2-14 from Curtis Bosco, ZEO to Attorney Michael McVerry containing an email from Jack Proulx dated 6-18-14;
4. Fax dated 6-30-14 from Acting Police Chief Richard Wildman;
5. Certified letter dated 6-25-14 with the Resolution from Deborah Seavey, WEO to Mr. Moore.

Attorney McVerry stated that the lot consists of 1.173 acres of land, zoned CA-40 with a boarded up house that will ultimately be demolished for the project. His client plans to purchase said property and construct a 7,500 square foot office building on site. Access to the property will be through an existing 15 foot right-of-way which comes in off of Route 63. Prior to closing, they plan to receive an easement from Pomeroy Enterprises, LLC allowing it to be expanded to 20 feet along with some remedial work in the culvert as part of the approval from the Conservation Commission. There will be 42 parking spaces in the rear of the property. The original application indicated that 7,950 cubic yards of fill would need to be excavated in the anticipation of constructing a full basement for storage purposes. After further consideration, alternatively they are proposing to place the building on a concrete slab having the basement level in the front of the building thus reducing the amount of fill to be removed by 2,300 cubic yards.

Brian Miller referred to his Memorandum dated 6-23-14. He suggested that any condition of approval include the submission of the easement to a right-of-way for access and to make improvements as approved by Town Counsel.

Brian Baker, P.E. of Civil 1 briefly reviewed the revised plans and indicated that additional landscaping has been added along the driveway entrance and that the existing shrub line along the northeast property line will remain.

John Calabrese, P.E. reviewed his letters dated 6-27-14 stressing that the height of the building should be confirmed, the bond should be determined by the Board of Selectmen, that a permit also be obtained should there be a need for blasting and that insurance is required.

Brian Baker, P.E. of Civil 1 anticipates that there will be eleven 8 hour days of trucking material and Route 63 and highways will be utilized as opposed to local residential roads.

Chairman Smith questioned the proposed maximum 7 foot high wall in the back of the building.

Garrett Moore stated that he plans to have a fieldstone type wall constructed.

**Motion:** to close the Public Hearing for Pomeroy Enterprises, LLC/Garrett Moore-891 Straits Turnpike-Application for Site Plan Approval at 7:46 P.M. Made by Paul Babarik, seconded by Erika Carrington. Unanimous Approval.

**Motion:** to close the Public Hearing for Pomeroy Enterprises, LLC/Garrett Moore-891 Straits Turnpike-Application for an Excavation & Grading Permit pursuant to Section 64 at 7:46 P.M. Made by Paul Babarik, seconded by Erika Carrington. Unanimous Approval.

### **MINUTE APPROVAL**

#### **3. Discussion of the Minutes of the Public Hearings and Regular Meeting held on June 5, 2014**

**Motion:** to approve the Minutes of the Public Hearings and Regular Meeting held on June 5, 2014. Made by Erika Carrington, seconded by Ron Kulpa. Unanimous Approval.

**OLD BUSINESS**

**4. 492, LLC/Blarney Stone Restaurant-Application for Certificate of Zoning Compliance for Change of Use (Application #2014-6-1)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. He stated that additional information was added to the map per the request of the Commission. For the record, he submitted a copy of a Warranty Deed recorded in Volume 64; Pages 575-578 which contains details of the right-of-way. He confirmed that the property contains 26 parking spaces (18 in the front and 8 in the back), each being 9X20 feet in size. The building is 48 ¼ feet by 68 feet totaling 3,281 square feet of which 538 ¾ square feet is designated to the back area. For restaurant purposes, 1 space per 45 feet of patron floor area requires 12 spaces. The balance of the building is 2,704 square feet, 1 space per 200 ground floor area requires 13 spaces. He referred to Section 62.4.2 of the Regulations pertaining to deferred spaces in which the Commission is able to waive the requirement for impervious surfaces for 25% of the existing spaces and stated that the property falls one short of the requirement. If approved, line painting of the spaces will be done.

Curtis Bosco, ZEO stated that the building inspector will require 1 handicap parking space.

Erika Carrington voiced her concerns with respect to the parking spaces truly being adequate.

Chairman Smith stated that he does not have an issue with the parking spaces but agreed with John Calabrese, P.E. in that a sign is needed indicating the location of the additional parking.

Attorney McVerry confirmed that the sign requirement would not be a problem.

John Calabrese, P.E. stated that if the Commission determines that a paved parking lot is needed, potential drainage issues will need to be considered.

Attorney McVerry confirmed that the restaurant area seats 14 patrons.

**Motion:** to approve the Site Plan with the deferred parking and conditioned that the parking is shown and must be lined and that a sign showing where additional parking is be installed. Made by Paul Babarik, seconded by Ron Kulpa, Chairman Smith voted Aye and Erika Carrington was opposed. Vote: 3:1. Motion Passed.

**NEW BUSINESS**

**5. Pomeroy Enterprises, LLC/Garrett Moore-891 Straits Turnpike-Application for Site Plan Approval (Application #2014-6-3)**

**Motion:** to approve the Site Plan by Civil 1 labeled 891 Straits Turnpike with the condition that the easement be submitted and approved by the Town Attorney. Made by Erika Carrington, seconded by Paul Babarik. Unanimous Approval.

**6. Pomeroy Enterprises, LLC/Garrett Moore-891 Straits Turnpike-Application for an Excavation & Grading Permit pursuant to Section 64 (Application #2014-6-4)**

**Motion:** to approve the Excavation & Grading Permit for 891 Straits Turnpike with the conditions that the comments and recommendations of Calabrese Engineering be followed and that the architectural & engineering drawings be submitted to the Town Engineer for approval. Made by Erika Carrington, seconded by Ron Kulpa. Unanimous Approval.

Chairman Smith did confirm to Attorney McVerry that a partial refund for the Excavation & Grading fee concerning the removal of material would be acceptable given the reduction of material to be removed in accordance with the revised plans.

**OTHER BUSINESS**

**7. Any other business added to agenda by 2/3 vote of Commission**

None

**8. Enforcement Report**

Curtis Bosco, ZEO reviewed his report with the Commission. He stated that he received an application this past week for a property on West Lake Road and submitted it to Chairman Smith.

Chairman Smith stated that the applicant needs to provide the Commission with the ground coverage including calculations and percentages, be reviewed by the Town Engineer and then submit his recommendations to the Commission.

Mr. Messina stated that his property is not over the maximum coverage and that it is under the existing footprint and that the shed was already existing and approved.

Curtis Bosco, ZEO stated that the property located at 9 Woodfield Drive is his top priority as far as property maintenance is concerned.

**9. Adjournment**

**Motion:** to adjourn the meeting at 8:16 P.M. Made by Erika Carrington, seconded by Paul Babarik. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Edith Salisbury, Town Clerk

cc: P&Z Commission Members  
Thomas Proulx, 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, Deputy Director of Health  
Mary Barton