



## **TOWN OF MIDDLEBURY**

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

### **OCTOBER 2, 2014 REGULAR MEETING MINUTES**

#### **MEMBERS PRESENT**

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

#### **MEMBERS ABSENT**

#### **ALTERNATES PRESENT**

Ron Kulpa  
Christian Yantorno

#### **ALTERNATES ABSENT**

Paul T. Babarik

#### **ALSO PRESENT**

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 7:31 P.M.

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

Chairman Smith announced Regular Members Smith, Stowell, Carrington, and Robison as present along with Alternate Members Kulpa and Yantorno. Alternate Member Paul Babarik was absent. He appointed Ron Kulpa to act in place of the open seat.

## **MINUTE APPROVAL**

### **1. Discussion of the Minutes of the Regular Meeting held on September 4, 2014**

**Motion:** to approve the Minutes of the Regular Meeting held on September 4, 2014. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

## **OLD BUSINESS**

### **2. Michael Hartnett – 2 West Lake Road – Site Plan Review (2014-8-1)**

Attorney Tom Riley spoke on behalf of the proposed purchaser of said property Mr. Largay. Attorney Riley is also a member of the Condominium Association. More than 20 years ago, Mr. Whittemore offered the unit owners the option of purchasing the land under the existing cottages. Condominium units were created out of the land that each cottage occupied. He stated that the land upon which each building resides are not lots but rather units of the Condo Association. He referenced the perimeters of the units as the dark lines on the map, which is traditionally a lot line: in the association's circumstances, the unit definition. As time evolved, there were conflicts among the unit owners over the size of their existing cottages and unit as there was no uniformity. The Association's Regulations indicate that whatever each unit owner wanted to do with their property had to be done with respect for the lake and neighbors. Therefore, an expansion of the existing footprint (living space of the dwelling) could be done without the permission of a neighbor or Board provided it did not exceed 30%. Any proposed expansion greater than 30% would require permission from the neighbors, the Board of Directors and the Planning & Zoning Commission. The Board also stipulates that expansions cannot exceed the sidelines or go beyond 2,500 square feet of living space. Garages are also permitted provided they fall within the envelope of the sidelines. He stated that Mr. Largay's proposal fits within the envelope of the sidelines, increases his total living area but falls under the 2,500 square feet requirement and that the garage should not be included in the definition of the dwelling as it is not considered living space. The neighboring property owners (Quassy Sailing School and Mr. & Mrs. Butkus) are in support of the proposal. The unit owners will be required to connect to the community septic and water system within the next year.

Mr. Paul Largay shared his past experiences concerning Lake Quassapaug and expressed his strong desire to make his dream of residing on the Lake a reality. He also stated that he has obtained the approval from the Condominium Association, his neighbors, the Middlebury Conservation Commission and asked that the Planning & Zoning Commission do the same.

Mark Lancore, P.E. of Dymar, 325 Main Street South, Southbury, CT also spoke on behalf of Mr. Largay. He submitted the revised plans and his letter dated 10-2-14 for the record and reviewed them with the Commission. He stated that the original drawings that were submitted have since been amended to now reflect a footprint of 1,869 square feet resulting in a 61% increase in the footprint. Said amendment was due to the exclusion of the garage calculations as the Association does not consider it as living space. He also submitted and reviewed their Unit Expansion Feasibility Plan dated 2-21-14 with the Commission which references each unit with building setback limits and potential footprint expansions @ 1.61 times the existing footprint.

Ron Kulpa voiced his concern with respect to those that own the smaller units.

Attorney Riley stated that all the members of the Association as a whole came to the agreement that each owner would pay the same amount when purchasing the property.

Mark Lancore stated that the fairness falls within each unit owner's ability to increase their dwelling up to 2,500 square feet whether it be by adding up or down.

Ron Kulpa stated that he feels that a proposal such as this is unfair to the owners of the smaller units as they would never be able to add as much value to their properties as those with the bigger units.

Mr. & Mrs. Butkus confirmed that the members of the Association have an understanding with respect to the variation of values of the units.

Chairman Smith questioned if the infrastructure of the well and septic systems would be able to accommodate all the units if they were to expand to 2,500 square feet.

John Butkus, President of the Association, confirmed that the systems are able to support 25 three (3) bedroom units and have received approval from all necessary entities. He also confirmed that said information has been submitted.

John Calabrese, P.E. stated that he did participate in a few meetings with DEEP and it is his understanding that the system is sized for 3 bedroom units and that Torrington Health District must verify that there are only 3 bedrooms.

Matthew Robison questioned John Calabrese, P.E. if he was in agreement with the calculations which have been presented.

John Calabrese, P.E. stated that he has not seen the calculations and that he is going by what Mark Lancore has provided. He also stated that the Regulations are not very clear.

It seems as though the footprint definition for the existing porch is utilized to determine the existing footprint calculation yet the proposed porch is not being utilized for totaling the square footage of living space. Section 25.6.7 states that porches, decks, patios, sheds and docks may be located outside the footprint.

Attorney Riley stated that Section 25.6.1 relates to the measurement to allow you to get to your 30%. They debated whether or not it would be possible once you got to that number or you had a variance and you got a variance number, if they would include porches. It was never intended that anything like that would be included in the floor area, not the footprint, but the floor area of the dwelling.

Erika Carrington indicated that a similar issue with porches was brought before this Commission in the past by the Molders.

Chairman Smith stated that the item would need to be researched.

Erika Carrington questioned if the map represents a 61% increase, why was the original proposal only 30%.

Attorney Riley stated that it was the limit for people who had units as big as his.

Chairman Smith suggested to the Commission that the application be tabled until next month to which all those present agreed.

Attorney Riley requested, on behalf of Mr. Largay, that the Commission grant an extension to which Chairman Smith agreed.

### **NEW BUSINESS**

#### **3. Town of Middlebury/Attorney Dana D'Angelo – proposed change to Section 22.7 of the Regulations**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT stated that approximately a year ago a client tried to sell a house in Brookside and it took about 8 months to take care of it. As a result of that, both Attorney McVerry and Attorney D'Angelo discussed that because of the way the Brookside development was finally approved, their declaration is not part of the Regulations. Therefore, it is difficult to come up with a formula to allow the resale of affordable housing and Attorney D'Angelo submitted a proposed change to Section 22.7.

Chairman Smith agreed to hold a Public Hearing on November 6, 2014.

**4. Middlebury Land Development, LLC – North Benson Rd. & Judd Hill Rd. – Application for Excavation & Grading Permit pursuant to Section 64 (Application #2014-9-1)**

Attorney Jennifer Yoxall requested that the Commission accept the application and schedule a Public Hearing. She also submitted a Legal Notice for publication purposes to Recording Clerk Rachelle Behuniak and the Notices to be sent to Woodbury and Southbury with the certified mailing materials to ZEO Curtis Bosco.

Chairman Smith stated that a Public Hearing will be scheduled for November 6, 2014.

**5. Lake Quassapaug Amusement Park, Inc. – 2132 Middlebury Rd. – Application for Site Plan Modification (Application #2014-9-2)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT spoke on behalf of the applicant. The proposal is to modify the site plan by adding a maintenance building, two new water slides, a snack bar with a 32' X 18' deck, and replace the redemption center with a candy store. Both Attorney McVerry and Eric Anderson reviewed the proposed plans with the Commission.

Eric Anderson reviewed the plans with the Commission.

Attorney McVerry stated that Eric Anderson did speak with the Police Chief and Fire Chief pursuant to the Regulations and copies do need to be given to the Economic & Industrial Development Commission

Eric Anderson stated that a set of plans have also been given to Betty Proulx, Recreation Director APRP.

Chairman Smith tabled the application until November 6, 2104.

**6. Southford Road, LLC – 1000 Southford Road – Clarification of Gateway Regulations**

John Calabrese, P.E. stated that he was asked by Joe DeSantis (also present) of 55 Three Mile Hill Road to clarify the term “maximum lot coverage of 35%”. To be certain, they wanted clarification from the Commission.

Chairman Smith confirmed that 35% refers to building coverage and not lot coverage.

## **OTHER BUSINESS**

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

None

### **8. Discussion regarding Plan of Conservation & Development**

Chairman Smith stated that he contacted Brian Miller who informed him that the revised Plan of Conservation & Development was not ready. Alternatively, he assured Chairman Smith that it would be available next Tuesday.

### **9. Regulation Update**

Chairman Smith asked that the members make every effort to submit their revisions to Rachelle Behuniak at the November 6, 2014 meeting. He also asked the Commission to make note of things that need to be looked at when redoing the Regulations.

### **10. Enforcement Report**

Curtis Bosco, ZEO reviewed his report with the Commission and focused on Blight Complaints pertaining to Kelly Road and Hannah Drive. He also stated that the foreclosure list is getting shorter while the sales list is growing. He requested the Commission's permission to continue to administratively approve signage on approved commercial developments.

Chairman Smith agreed that ZEO Curtis Bosco could continue to grant administrative approval for temporary signs on approved Commercial developments.

### **11. Adjournment**

**Motion:** to adjourn the meeting at 9:02 P.M. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

Planning & Zoning  
Regular Meeting  
10-2-14

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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