



# TOWN OF MIDDLEBURY

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

## MINUTES February 25, 2014

### **Members Present:**

Thomas Proulx  
Vincent LoRusso  
James G. Crocicchia  
George Tzepos

### **Members Absent:**

Mary Barton  
Terry Manning

### **I. CALL TO ORDER:**

The Meeting was called to order at 7:30 P.M. by Chairman Thomas Proulx.

### **II. ACTION ON MINUTES OF JANUARY 28, 2014 REGULAR MEETING:**

**Motion:** to accept the Minutes of the January 28, 2014 Regular Meeting. Made by George Tzepos, seconded by James Crocicchia. Unanimous Approval.

### **III. OLD BUISNESS**

#### **1. Application #346 – 28 Tyler Cove**

Paige Kenausis was present.

Chairman Proulx stated that the composting outhouse is an improvement.

George Tzepos agreed that it is an improvement.

Paige Kenausis stated that they approval was received from the Torrington Health District. She stated that she would provide a copy to WEO Deborah Seavey.

**Motion:** to approve Application #346 – 28 Tyler's Cove. Made by George Tzepos, seconded by Vincent LoRusso. Unanimous Approval.

**2. Application #347 – South Street – Larkin Timber Harvesting**

Eric Hansen, Consulting Forester of Ferrucci & Walicki, LLC Forest Management spoke on behalf of the applicant.

Chairman Proulx stated that the Commission was waiting for an accurate acreage figure.

Eric Hansen stated that he emailed the figures to WEO Deborah Seavey.

Chairman Proulx suggested that he meet with WEO Deborah Seavey to determine the exact fee.

Eric Hansen informed the Commission that WEO Deborah Seavey provided him with a copy of the Regulations and he advocated that the application falls under Section 4.2 (a.) which pertains to non-regulated uses.

George Tzezos stated that they do plan to cross over one of the wetlands. He also stated that due to the existing snow, it has been impossible to walk the property.

Vincent LoRusso also indicated that he did not feel comfortable voting on said application without being able to walk the property.

Eric Hansen indicated he was looking for the Commission's approval prior to putting the project out for bid. He also stated that work would not commence until the ground was ready to do so. However, he feels that there are areas that exist that could be operated without the proposed crossings as this point. He reviewed the plans with the Commission. He also stated that they plan to avoid cutting trees in the wetlands. Refueling and maintenance of the equipment will be done on the landings which are indicated on the plans. He did speak with Dan Norton, Public Works Director, with respect to a possible necessity of a curb cut. Mr. Norton did provide him with the necessary paperwork and is waiting to see who will be getting the bid for the project as they will be the one who will determine what will need to be done. Crossing #1 will be utilizing on site material while crossing #2 will be constructed of off-site material.

George Tzezos initially suggested charging the applicant \$500.00 for a commercial use.

Rachelle Behuniak, Recording Clerk indicated that a separate application fee might need to be incorporated into the total fee and that WEO, Deborah Seavey needed to be consulted.

After further discussion, George Tzezos stated that it would be best to table the discussion until the next meeting as forest thinning in the buffer zone is part of the plan.

Eric Hansen did confirm that there will be forest thinning in the buffer area.

Chairman Proulx requested that the Commission be informed of the number of trees to be cut within the buffer area.

Eric Hansen stated that he was unsure if he could provide a number. The review area is going to be ambiguous because there may or may not be a very obvious distinction as to where the wetlands ends and begins.

Vincent LoRusso questioned if the wetlands had been flagged.

Eric Hansen responded “No”.

Chairman Proulx requested that it be done and also mentioned that this is a for profit operation.

**Motion:** to table Application #347 – South Street – Larkin Timber Harvesting. Made by George Tzezos, seconded by James Crocicchia. Unanimous Approval.

Vincent LoRusso was satisfied with Eric Hansen’s explanation of the temporary crossings.

The number of trees to be cut within the upland review area is of great concern to the Commission.

Eric Hansen stated that there will be no clear cutting in the upland review area.

George Tzezos stated that their letter indicates that there are marked trees located along the wetlands and watercourses.

Eric Hansen confirmed that he was the one that marked the trees.

George Tzezos stated that since Eric Hansen did it, that he needs to figure out how many there are and where.

Eric Hansen stated that he did email maps to WEO, Deborah Seavey.

**Motion:** to add Joseph Bernardi – 450 Regan Road to the Agenda. Made by James Crocicchia, seconded by Vincent LoRusso. Thomas Proulx voted: Aye. George Tzepos abstained from voting. Motion Passed.

Joseph Bernardi of 450 Regan Road wanted to clear up the matter of the clearing he did in the wetlands area of Hop Brook.

Chairman Proulx stated that any activity in any wetlands area requires a permit. He stated that Mr. Bernardi should apply for an application and that things continue from there.

Joseph Bernardi stated that he used a brush hog and he didn't measure the wetlands. He brush hogged all the invasive species and due to storms had dead fall which produced an entanglement. He stated it was hazardous for his children. He did not utilize a chainsaw or cut a single tree. He got rid of deadfall, brush and litter, mulched it up and what remained was chippings of brush hog. It was questionable whether he needed a permit for that because he mows his lawn right up to the river along with 10-15 neighbors. He knew that if he had to cut trees that he would have had to come before the Commission. He stated that he didn't cut a single tree there in all the years that he's owned it because he knows he can't do that. He also stated that he would like to eventually cut a couple of trees but he is not at that stage right now.

Chairman Proulx stated that being a lumber man, he knows that even the brush is retention for water during high water and floods.

Vincent LoRusso stated that while his intentions were good, that any work done in the review area needs to be brought before this Commission.

Joseph Bernardi also stated that he thought to himself that if he were to get a permit, he would need a signature from the other 50% owner who is deceased. Now, from what he understands, he could just obtain a permit as 50% owner. For the record, he provided a copy of the Statutory Quit-Claim Deed, a letter from Attorney Robert Hanahan dated 8-21-13 and his State of Connecticut Department of Environmental Protection Certificate.

Vincent LoRusso stated that he was still working within the review area without a permit.

Chairman Proulx stated that he needs to contact WEO Deborah Seavey, fill out an application, pay the fee and that the Commission will discuss what they feel needs to be done next month.

Joseph Bernardi agreed to have the members of the Commission visit the property.

Chairman Proulx confirmed that a permit is good for 5 years.

Joseph Bernardi also stated that he did abide by the Cease and Desist Order and that the reason why he did not attend the last meeting was because he only had 2 days notice and could not make it.

Chairman Proulx stated that this matter will be discussed next month.

#### **IV. NEW BUSINESS**

None

#### **V. PUBLIC COMMENT**

Terry McAuliffe, reporter with The Bee Intelligencer, questioned if logging had ever been done before on the South Street property.

Chairman Proulx stated not to his knowledge.

Terry McAuliffe also questioned if the permit application that the Commission is requesting that Mr. Bernardi to fill out is retroactive or going forward.

Chairman Proulx stated that it is going forward. Right now the Commission needs a permit so the issue can be addressed. As a Commission, the issue will be discussed and it will be determined what action needs to be taken.

Joseph Bernardi suggested that Eric Hansen provide the Commission with a percentage of trees that will be cut within the review area rather than an actual number.

Eric Hansen stated that while it will vary, approximately 60%-70% of the residual trees within the upland review area will remain. He also questioned if he needed to be present at the next meeting.

George Tzezos indicated that the Commission may have some questions for him.

**VI. ADJOURNMENT**

**Motion:** to adjourn the meeting at 8:17 P.M. Made by George Tzezos, seconded by James Crocicchia. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Recording Clerk

Original to Edith Salisbury, Town Clerk

cc: Conservation Commission Members  
Debbie Seavey, WEO  
Ollie LeDuc, Building Official  
John Calabrese, P.E.  
Terry Smith, P&Z  
Curtis Bosco, ZEO  
Attorney Robert Smith, WPCA  
Larry S. Hutvagner, CFO