



## **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission  
1212 Whittemore Road  
Middlebury, Connecticut 06762  
(203) 577-4162 ph  
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### **JUNE 5, 2014 REGULAR MEETING MINUTES**

#### **MEMBERS PRESENT**

Terry Smith, Chairman  
William Stowell, Vice Chairman  
Erika Carrington

#### **MEMBERS ABSENT**

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 7:30 P.M.

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

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

## **PUBLIC HEARINGS**

### **1. Mr. William Zarillo-1628 Straits Turnpike-Application for a Zone Change from R-40 to CA-40 (Application #2014-4-4)**

Chairman Smith called the Public Hearing to order at 7:32 P.M. He read the following for the record:

1. Legal Notice published in Voices on 5-21-14 & 5-28-14 and The Bee Intelligencer on 5-23-14 & 5-30-14;
2. Staff Referral Report from Council of Governments (C.O.G.) dated 5-5-14;
3. Email from James A. Sequin, AICP, Planner for the City of Waterbury dated 6-2-14.

Attorney Curtis V. Titus spoke on behalf of the applicant. He stated that the area was originally zoned LI-80. The City of Waterbury did a zone change on property that abuts 1628 Straits Turnpike and he reviewed the map with the Commission along with a copy of a portion of their CG – General Commercial District Permitted Uses. He also stated that our CA-40 Zone is laid out to protect abutting residential zones and that his client has every intention on landscaping and maintaining the 50 foot required buffer area. Given the neighboring development of Middlebury Edge, he feels the proposed zone change is appropriate for said area. He submitted a letter of support from a neighboring property owner, Gary Laska dated 6-5-14 for the record.

Brian Miller reviewed his Memorandum dated 6-4-14 with the Commission. He stated that the entire corner of Straits Turnpike and Park Road is zoned CA-40. Unlike many residential areas along major roads having deterioration, the residential properties in this area are quite superior in nature. He does not consider this proposal to be spot zoning. While he does not see a major problem with the proposal, he did caution the Commission with the potential of Commercial Zoning creeping south down Straits Turnpike.

Paul Babarik did voice his concern with respect to the CA-40 Zone reaching down to Joanne Drive.

Ron Kulpa stated that he thinks the existing zone line is in an appropriate place.

**Motion:** to close the Public Hearing at 7:57 P.M. Made by William Stowell, seconded by Paul Babarik. Unanimous Approval.

**2. Jessica Widman/94 Watertown Rd-Application for Special Exception for an Accessory Apartment pursuant to Section 21.2.1 (Application #2014-5-1)**

Chairman Smith called the Public Hearing to order at 7:58 P.M. He recused himself as he is an adjoining homeowner and turned the meeting over to Vice Chairman William Stowell.

Vice Chairman William Stowell appointed Paul Babarik to act in place of absent member Matthew Robison and Ron Kulpa to act in place of the Open Seat. He read the Legal Notice published in Voices on 5-21-14 & 5-28-14 and The Bee Intelligencer on 5-23-14 & 5-30-14 for the record.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck spoke on behalf of the applicant. The proposal is to take the second story of the garage carriage house, which was built in 2010, and convert it into a residential in-law apartment for relatives to utilize when visiting. Approval was obtained by the Torrington Health District on 2-28-14. He also stated the Deborah Seavey, WEO confirmed that since this is not within any regulated area, that she had no issues with the proposal. He indicated that the position of the Fire Marshall was such that since it is a single family residence, he has no jurisdiction and declined to provide Attorney McVerry with any type of report.

Vice Chairman Stowell confirmed that the plans consist of 1 bedroom, seating area, kitchen, small eating area and a bathroom.

Brian Miller reviewed his Memorandum dated 6-5-14.

Attorney McVerry stated that his client had no issues with Mr. Miller's comments.

**Motion:** to close the Public Hearing at 8:10 P.M. Made by Erika Carrington, seconded by Ron Kulpa. Unanimous Approval.

**MINUTE APPROVAL**

**3. Discussion of the Minutes of the Regular Meeting held on May 1, 2014**

**Motion:** to approve the minutes of the Regular Meeting held on May 1, 2014. Made by William Stowell, seconded by Erika Carrington. Unanimous Approval.

**OLD BUSINESS**

None

**NEW BUSINESS**

**4. Mr. William Zarillo-1628 Straits Turnpike-Application for a Zone Change from R-40 to CA-40 (Application #2014-4-4)**

**Motion:** to deny the application as it is a single lot and the adjoining lots will be affected. Made by William Stowell, seconded by Erika Carrington.

**Discussion:**

William Stowell stated that it's unfortunate that it is a single lot because the people next to it are residential. He agreed that if something is to be done that it should be a whole section at a time and not just one spot.

Chairman Smith stated that he disagrees. He thinks it's an extension of what already exists and if the adjoining property owners had any issues with the proposal, they would have attended the meeting and voiced their concerns.

Attorney Curtis Titus stated that letters were not sent to the neighboring residents but that his client spoke with them and that they had no issues with the proposal.

Erika Carrington stated that she doesn't feel that it is fair for the neighboring property owners and fears that there will be future similar requests.

Ron Kulpa stated that there are other areas in town with a similar situation and that there was a purpose for where the line was put.

Chairman Smith thinks that it would be good for the town and if the neighboring property owner had any issues with the proposal, they would have attended the meeting.

Curtis Bosco, ZEO stated that for a strict zone change, the neighbors are notified through publication in a newspaper having substantial circulation. He also stated that some of the people did call him. Initially they were going to come in as a group (5 people) and none of them wanted to jump on board necessarily and they all said, "We're just going to let the chips fall where they may. We don't mind it."

Ron Kulpa voted aye. Chairman Smith and Paul Babarik voted nay.

**Vote: 3:2. Motion to deny the application passed.**

**5. Jessica Wildman/94 Watertown Rd-Application for Special Exception for an Accessory Apartment pursuant to Section 21.2.1 (Application #2014-5-1)**

Chairman Smith recused himself as he is an adjoining homeowner and turned the meeting over to Vice Chairman William Stowell.

**Motion:** to approve the application with the stipulation recommendation of the Torrington Health District regarding the septic system needing to be improved per the notice of exception dated 2-28-14 before approval is given by the Z.E.O. and that the requirements of Section 52.3.16 (b),(c),(d),(e) & (f) are waived, and that the comments in Town Planner, Brian Miller's Memorandum dated 6-5-14 be followed. Made by Erika Carrington, seconded by Paul Babarik. Unanimous Approval

**6. 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. His client is seeking approval to take the side entrance of the mobile gas station and utilize it as the entrance, with a few tables and 14 seats inside, rather than having people enter through the convenience entrance at the front of the property. He also stated that Mr. Bona indicated to him that tables had been set up in the past for various other establishments utilizing the area for similar uses. His client would like to use a few tables away from the convenience store itself. He indicated that according to the calculations on the property, 26 parking spaces would be required. The dining area is approximately 560 square feet which would require 13 spaces. The remainder of the structure is 2,720 square feet which would require an additional 13 spaces.

William Stowell stated that although he is not opposed to the proposal, he is not comfortable with the display map that was provided. He feels that a more detailed set of plans are necessary.

Chairman Smith agreed that a new site plan containing square footage calculations of each area, quantity of parking/handicap spaces along with measurements, easements, right-of-ways and abutting property lines is necessary.

**7. 1365, LLC/Middlebury Consignment-1365 Whittmore Road (West Street)  
Application for Site Plan Modification (Application #2014-6-2)**

Dean Yimoyines reviewed a site map from Curt Smith of Smith & Co. dated 6-28-13 with the Commission. He stated that he would like to open up a wall and take another 266 square feet and add it to the area immediately adjacent to the existing café.

Chairman Smith stated that the required parking will be met by 4 spaces.

Dean Yimoyines also stated that he has an additional 6 ½ acres.

**Motion:** to approve the application for a Site Plan Modification. Made by Paul Babarik, seconded by Erika Carrington. Unanimous Approval.

**OTHER BUSINESS**

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

None

**9. Enforcement Report**

Curtis Bosco, ZEO reviewed his report with the Commission. He stated that Mr. Mark Hadzega of 21 Acme Drive has complied with all but one of his requests and he plans to re-inspect soon. He also stated that George and Allison Messier of 775 South Street submitted an application to rent a room under Section 8.6. Mr. Messier then divulged to Mr. Bosco that he planned on starting a Bed & Breakfast to which Mr. Bosco explained to Mr. Messier that doing so would require approval for a completely different type of use.

Chairman Smith stated that the appropriate application fee would need to be paid and that the applicant should come before the Commission under Section 8 with a site plan, architectural plans, off street parking/garages, special exception use and any other pertinent information.

Curtis Bosco stated that several months ago, the Commission approved a Lot Line Revision for a land swap on Tucker Hill Road and Central Road. After further consideration, the applicants would like to make a slight adjustment to the approved Lot Line Revision of October, 2013. Mr. Bosco reviewed both the approved and proposed maps with the Commission.

Chairman Smith stated that he asked Brian Miller to come up with a final draft of the Plan of Conservation & Development and plans to possibly place it on the August Agenda. He also agreed to meet with Mr. Miller to address some of the issues that were brought up by C.O.G.

**10. Adjournment**

**Motion:** to adjourn the meeting at 9:20 P.M. Made by Erika Carrington, seconded by William Stowell. 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