



# TOWN OF MIDDLEBURY

*Conservation Commission  
1212 Whittemore Road  
Middlebury, Connecticut 06762  
(203) 577-4162 ph  
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## REGULAR MEETING MINUTES February 24, 2015

### **Members Present:**

Vincent LoRusso, Chairman  
James G. Crocicchia, Vice Chairman  
George Tzepos (arrived @ 7:35 p.m.)  
Justin Stanziale  
Mary Barton  
Terry Manning  
Thomas Proulx

### **Members Absent:**

None

### **Also Present:**

Deborah Seavey, WEO  
John Calabrese, P.E.

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

The Meeting was called to order at 7:30 P.M. by Chairman Vincent LoRusso.

## **II. ACTION ON MINUTES OF THE NOVEMBER 25, 2014 REGULAR MEETING**

**Motion:** to accept the Minutes of the November 25, 2014 Regular Meeting. Made by Thomas Proulx, seconded by James Crocicchia. Unanimous Approval.

## **III. OLD BUSINESS**

### **1. Application #355 – 197 Tranquility Road**

Chairman LoRusso read a letter from Thyryza Whittemore dated February 11, 2015 for the record.

**Motion:** to approve Application #355 – 197 Tranquility Road as per the Draft Resolution. Made by Mary Barton, seconded by James Crocicchia. Unanimous Approval.

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

##### **1. Permit Modification #351-A 891 Straits Turnpike**

Brain Baker of Civil 1 spoke on behalf of the applicant. The proposed modification pertains to one portion of the storm drainage system. An open swale below the building was originally proposed. As construction continued, the depth of the swale and its proximity to the driveway and the building created a deep trench which could potentially present a safety issue for vehicles. Therefore, they are proposing to swap it with more plastic infiltration chambers instead of the open-grass swale.

Chairman LoRusso questioned if it would be maintained as a grass island or become an impervious surface.

Brian Baker confirmed that it would be grass over the infiltrators. The net impervious surface is exactly the same.

John Calabrese, P.E. confirmed that he does not have an issue with the proposal.

**Motion:** to accept Permit Modification #351-A 891 Straits Turnpike. Made by Thomas Proulx, seconded by Mary Barton. George Tzepos recused himself. Unanimous Approval.

##### **2. Application #357 – Benson Road/Rte 188**

George Logan of Rema Ecological Services LLC, 164 East Center Street, Suite 8, Manchester, CT spoke on behalf of the applicant. The use is a 9,600 square commercial office building with 48 parking spaces with associated infrastructure improvements including a storm water management system. The engineering was performed by Waldo & Associates LLC, 89 State Street, Guilford, CT and he reviewed their plans with the Commission. Wetland A is an open meadow which does have some watercourses which allows for drainage to Wetland B (larger of the 2) via a ditch watercourse which has an existing manmade driveway/bridge that used to allow for access to a farm house. They are proposing to fill the ditch watercourse along with a small slither of wetlands approximately 1,340 square feet in size. Wetland B is the exceptional resource. They are attempting to position the building in such a way so that all the parking and disturbances would be facing away from Wetland B. There is at least 50 feet of buffer from the back of the disturbance to said wetland. The permanent fill is approximately 2,700 square feet and temporary fill of 580 square feet to bring utilities including sewer to the building.

There is an aggressive mitigation plan. They are proposing a wetland enhancement and restoration in the light green area of the plans and a wetland creation on the upper area for a total of almost 6,000 square feet. Dense vegetation of the slope with and enhancement of the existing buffer are being proposed for the back of the building. Significant trees have been marked on the plans. A report was previously submitted for the record indicating that there will be no increased peak discharges. A copy of a letter from Connecticut Department of Energy & Environmental Protection to George Logan, dated March 20, 2014 was also submitted for the record. In said letter, hare's tail, white-fringed orchid, black spruce and dwarf mistletoe are all mentioned as species that have been documented within or near the parcel. Mr. Logan stated neither their habitats nor the species are in or in close proximity of the acreage being discussed.

Mr. Theroux stated that the proposed use of the building is commercial/industrial/warehouse/office and that he does not have a tenant.

George Logan stated that several trips have been made to the site. Like similar sites, wildlife usage is impacted when properties are located within a few hundred feet of a major transportation corridor. While there will be some localized impact, there will be no perceptible impact on the hydrology of the resources. He did confirm that the 100 foot setbacks need to be referenced on the plans.

Mary Barton questioned if alternative plans were considered.

George Logan stated that there were alternative plans and that he would bring them to the next meeting.

**Motion:** to accept Application #357 – Benson Road/Route 188. Made by Terry Manning, seconded by Mary Barton. Unanimous Approval.

**Motion:** that the applicant be required to pay \$2,000.00 for an outside technical review by Ed Pawlak of Connecticut Ecosystems for Application #357 – Benson Road/Route 188. Made by Mary Barton, seconded by Terry Manning. Unanimous Approval.

Terry Manning stated that not much action can take place as far as visiting the property due to the amount of snow.

George Logan stated that once they are able to, the property will be staked and he will keep Deborah Seavey, WEO informed.

Deborah Seavey, WEO requested that the plans be signed and sealed by an engineer.

### **3. Application #358 – 504/520 Middlebury Road**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT spoke on behalf of the applicant. The property consists of the current Shell station and the vacant lot next to it which formerly contained Johnny's Dairy Bar and Vinnie's Pizza. The proposal is to remove the existing Shell station, pumps and canopy (1,630 square feet) and replace it with a 3,275 square foot building and new canopy in the front of the building containing 5 pumps with 10 stations. An application has been submitted to the Planning & Zoning Commission and a Public Hearing has been scheduled for March 5, 2015. He also stated that the only thing that will be done to the watercourse is stabilization.

Dainius Virbickas, P.E. of Artel Engineering Group, LLC, 304 Federal Road, Suite 308, Brookfield, CT stated that the best point of access would be to the west of the property by the back loading area in back of Village Square. The man-made ditch is approximately 3 feet wide and 3 feet deep. They are proposing to clean up the area and stabilize it with fabric and rip wrap to prevent further erosion. He offered to reference such on the plans. The proposed retaining wall is approximately 6-8 feet tall. The drainage discharges to the west property line into an existing 15 inch pipe. Drainage improvements will be put onto the site. Currently the water from the site sheet-flows out onto Route 64 with the exception of a catch basin that is located in the southeast corner of the site. The proposal is to capture the pavement runoff through a series of catch basins and trench drains and route said drainage through a water separator and into the state drainage system to ensure there is no increase in the rate of runoff. The building roof and canopy runoff will be routed into a sub-surface storm-water infiltration system. He anticipates a decrease of approximately 100 square feet in impervious area.

Attorney McVerry confirmed that the majority of the building is within the 100 foot setback. He also stated that they received approval from the Economic Development Commission this evening.

**Motion:** to accept Application #358 – 504/520 Middlebury Road. Made by George Tzepos, seconded by Mary Barton. Unanimous Approval.

## **V. DISCUSSION**

### **1. 120 Tranquility Road Complaint**

Attorney Anne Peters of Carmody, Torrence, Sandak & Hennessy, LLP spoke on behalf of Robert Bosco. She made reference to the complaint issued by the Army Corps of Engineers (ACOE) regarding the dam in question. The Conservation Commission issued a permit to Mr. & Mrs. Bosco in 2011 to do some work on the stream including the construction of a plunge pool so as to aid with erosion and sediment control, to create a widening of a small pond with an outlet and a soil berm, and to reconstruct an old bridge that crosses over the stream. Mr. Bosco completed the work and became concerned that the berm was not structurally sound and in turn constructed a reinforced concrete dam which Mr. Bosco did not obtain a permit for. They anticipate coming before this Commission for a permit for said activity. The question is whether or not the dam is subject to Connecticut Department of Energy & Environmental Protection (DEEP) jurisdiction because they regulate larger dams or if it is subject to this Commission's jurisdiction. DEEP issued a letter dated 1-12-15 indicating that it was too small of a dam to fall within their regulations. Said letter does contain a typographical error where the word "permit" was omitted in the second paragraph, second line and should read "DEEP dam construction permit pursuant" and the applicant is waiting for a revised letter from DEEP. The applicant is currently working to obtain a permit from ACOE and they will be inspecting the dam and the stream as soon as the property can be accessed. She also welcomed members of the Commission to walk the property as well.

Chairman LoRusso stated that Deborah Seavey, WEO needs to be informed as to when the inspection will be taking place.

Attorney Peters was not certain if the engineer of the original application asked the ACOE for a determination.

George Tzezos suggested that the applicant apply for a new permit verses trying to modify the existing permit.

Attorney Peters stated that they would be back before this Commission with an application within 60 days of the determination of ACOE.

Greg Barnes of 64 Spring Road stated that his complaint to ACOE initiated all of this and that Mr. Bosco has violated every condition from day one and does not believe it is a dam.

Chairman LoRusso stated that an application will be coming in concerning the dam and this Commission will act on it in the near future. He also confirmed that all members of

the Commission received a copy of Mr. Barnes' letter dated 1-18-15 addressed to Chairman LoRusso.

**2. 165 Falcon Crest Drive – Bond Release**

**Motion:** to recommend to the Board of Selectmen to release the bond for 165 Falcon Crest Drive. Made by Mary Barton, seconded by George Tzepos. Unanimous Approval.

**3. Ridgewood at Middlebury**

John Calabrese, P.E. stated that there was a change on Phase II-A and Phase II-B.

Deborah Seavey, WEO confirmed that they would like to lower the proposed grade in Phase II-B and maintain the grades on Phase II-A. She also stated that this was strictly for informational purposes.

John Calabrese, P.E. stated that he had no issues.

**VI. PUBLIC COMMENT**

None

**VII. ADJOURNMENT**

**ADJOURNMENT**

**Motion:** to adjourn the meeting at 8:29 P.M. Made by Mary Barton, seconded by Terry Manning. 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

## **RESOLUTION/REPORT**

Application 355 197 Tranquility Road

**WHEREAS:** The Middlebury Conservation Commission for the Town of Middlebury has received an application on November 25, 2014 from Thyrsa Whittemore

**WHEREAS:** The Commission has considered the proposed activity, application and all documents and reports submitted by or on behalf of the applicant.

**WHEREAS:** Field inspections were conducted by Commission members;

**WHEREAS:** The Commission finds based on evidence received that the proposed activity does conform to the purposes and requirements of the Inland Wetlands Commission;

**WHEREAS:** The Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the commission considered factors and circumstances as set forth in Section 10.2;

**NOW THEREFORE, BE IT RESOLVED** That the Middlebury Conservation Commission approves the above application with the following conditions:

- (1) The proposed activity that consists of vegetation removal within a watercourse setback area will not have a substantial impact on the regulated area.
- (2) The applicant is strongly reminded to obtain a wetlands permit prior to commencing any future regulated activities.
- (3) The applicant shall notify the enforcement officer forty-eight (48) hours prior to the commencement of work and upon its completion.
- (4) Timely implementation and maintenance of sediment and erosion control measures are a condition of this approval. All sediment and erosion control measures must be maintained until all disturbed areas are stabilized.
- (5) No equipment or material including without limitation, fill, construction materials, or debris, shall be deposited, placed or stored in any wetland or watercourse on or off site unless specifically authorized by this approval.
- (6) All work and all regulated activities conducted pursuant to this approval shall be consistent with the terms and conditions of the wetland permit. Any structures, excavation, fill, obstructions, encroachments or regulated activities not specifically identified and authorized shall constitute a violation of this approval and may result in its modification, suspension, or revocation.
- (7) It is the applicant's responsibility to give notification to the Army Corps of Engineers and the Department of Environmental Protection if necessary.

February 24, 2015