



TOWN OF MIDDLEBURY

*Planning & Zoning Commission
1212 Whittemore Road
Middlebury, Connecticut 06762
(203) 577-4162 ph
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MAY 7, 2015 REGULAR MEETING MINUTES

MEMBERS PRESENT

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

MEMBERS ABSENT

ALTERNATES PRESENT

Paul T. Babarik

ALTERNATES ABSENT

Christian Yantorno

ALSO PRESENT

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

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, Robison, Stowell, Carrington and Alternate Member Babarik as present. Alternate Member Yantorno was absent. He appointed Paul Babarik to act in place of the open seat.

PUBLIC HEARING

1. Wesson Energy, Inc. – 504-520 Middlebury Road – Application for Site Plan Approval (Application 2015-1-1) (Continued)

Chairman Smith called the Public Hearing to order at 7:32 p.m.

Attorney McVerry spoke on behalf of the applicant and submitted the following documents for the record:

1. Letter dated 3-9-15 from Gilbert Roberts, RS of Torrington Area Health District indicating that there is no objection to the request;
2. Resolution approval dated 3-31-15 from Middlebury Conservation Commission.

He also stated that approval has been granted by the WPCA but does not have the paper copy of said approval but once available, will provide it to Curtis Bosco, ZEO. The 53,660 square foot parcel is owned by Wesson Energy, Inc. The proposal is to demolish the existing structure, canopy and tanks and build a larger building 3,275 square feet in size. The area was staked per the request of the Commission. Five pumps, including 10 pumping stations are also being proposed under the new canopy in front of the building. A variance was granted by the Zoning Board of Appeals which is referenced in their 10-1-14 meeting minutes and was submitted for the record. Along with 1 loading area, there will be 34 parking spaces. He stated that the sit down eating and drive through previously proposed have been eliminated from the application.

Dainius Virbickas, P.E. of Artel Engineering Group, LLC submitted and reviewed the revised plans dated 4-30-15 with the Commission. Soil testing will be done within the next week or so with respect to the storm drainage system. The driveway around the back of the building still remains in order for delivery trucks and garbage trucks can have access and drive around the building itself. A landscape plan is now also included. A lighting consultant prepared plans which include LED lighting. Sidewalks will run southerly and easterly to encourage pedestrian access to and from the site and an evergreen wall will also be constructed. Per the suggestion of Michael A. Galante of Frederick P. Clark Associates, Inc., the fueling islands which were previously angled to the road are now perpendicular.

Michael A. Galante of Frederick P. Clark Associates, Inc. reviewed their Traffic Access & Impact Study dated April 2015. Said study was performed during a weekday morning from 7:00 a.m.-9:00a.m., a weekday afternoon from 4:00 p.m.-6:00 p.m., and a Saturday morning from 10:00 a.m.-2:00 p.m. The peak hour volumes were as follows: 7:30 a.m.-8:30 a.m., 4:00 p.m.-5:00 p.m. and Saturday 11:30 a.m.-12:30 p.m. He also stated that

the weekday afternoon carries the highest volume. In addition to their manual counts, all available data from the CT Department of Transportation was obtained as well. Traffic was also added for other developments. He estimates that this development would generate an additional 45-65 trips during a 1 hour period. From the actual counts, approximately 55% of the traffic comes from the east and returning traffic is slightly less. It is his opinion that this is not a significant impact to the road system meaning there is no need to change the traffic signal timing.

Attorney McVerry reiterated that the property is located in a CA40 Zone. The proposed building will be an improvement of what currently exists as well as preserving of the landscape. He also stated that approximately 3-4 years ago, Wesson did a land swap with St. John of the Cross Church in which Wesson conveyed to the church a 10 foot strip on the easterly side of the property in return for a squared off piece in the back. Buffer requirements are also being met. Therefore, he feels that they are in compliance with the standards of Special Exceptions. He reviewed his letter dated 5-4-15 which is in response to the Memorandum dated 3-2-15 from the Turner Miller Group.

The following residents of Middlebury voiced their concerns with respect to the proposed application:

1. Nancy Robison of Regan Road – feels that 5 bays is out of character for Middlebury and is extremely concerned about additional traffic.
2. Michael Jacobi of Tranquility Road questioned if diesel gas would be available for purchase.

Attorney McVerry stated that while he's not operating the station, there would probably be 2 diesel pumps but diesel operated cars. There is no way to get tractor trailers in and out of the station other than a tanker truck delivering fuel. There's not enough room to service over the road tractor trailers.

3. James Smith of Tranquility Road voiced his concerns with the type of traffic that is going to be coming through town and questioned the true impact from traffic coming off of I-84. He also feels that there is a disconnect from what is being said and what is likely to happen.

Michael A. Galante of Frederick P. Clark Associates, Inc. stated that they do not anticipate any larger trucks using the station.

4. Peter Vaccarelli questioned if there would be any advertising on I-84 in either direction.

Jack Starr stated that there would be no posted gas station or truck stop sign on the highway.

5. Scott Peterson questioned if advertising was displayed, particularly cheap gas, how it would affect traffic. While he likes the look of the proposed building, he questioned what the definition of “size and harmonious compatibility” issue is. He feels it is quite cramped and long. He also questioned if a Landscape Architect could make some preliminary plans as he feels more details are needed.
6. A resident on Mirey Dam Road stated that traffic is a big issue. He questioned the diesel capacity of the current station and that of the new station.

Jack Starr stated that the current station has a 4,000 gallon tank. He said if he had to guess the new one would be somewhere in the area of 6,000-8,000 gallons.

7. A resident on Porter Avenue voiced her concerns with additional wait time to get back into the flow of traffic when exiting the premises as well as the impact to the flood zone.

Dainius Virbickas, P.E. of Artel Engineering Group, LLC stated that the sight is designed to reduce the amount of impervious coverage on the site which will leave more room for drain water to go down into the ground.

8. Senator Joan Hartley questioned if an independent traffic study was performed or an independent review of the assessment that has been so far conducted. She also encouraged all to be mindful of the proposed power plant currently before Oxford.

Chairman Smith indicated that there has not been an independent traffic study performed nor an independent review at this point.

Attorney McVerry stated that they cannot plan their proposal based upon what may happen in an adjacent town.

9. Cathy Smith of Tranquility Road questioned why the store needs to be open 24/7 and that it is not for the people of Middlebury but rather the target market on I-84.
10. A resident of Upper Whittemore Road questioned the diesel fuel capacity and frequency of tanker truck deliveries.

Attorney McVerry stated that it will be based on need.

Jack Starr stated he owns a diesel car and drives by the current station at least twice a day. He could not confirm the exact frequency of deliveries but stated that it depends on the viability of the station and as to how much gas is sold.

11. Charlotte Walters stated that the rendering does not represent the surrounding area. She feels that the numerous gas pumps (proposed and existing) are not what Middlebury residents want.
12. Dr. Keggi voiced his opposition to the proposal.
13. Jean Peterson voiced her opposition to the proposal.
14. Alice Halloran suggested that the applicant not include the additional parking and to leave said area natural; as rural as possible.
15. Scott Peterson of 317 Tranquility Road submitted and summarized is letter dated 5-7-15.
16. James Smith of Tranquility Road stressed the importance of encouraging economic development while protecting the quality of life.
17. Michael Jacobi submitted a letter dated 5-7-15 for the record.

Matthew Robison voiced his concerns with respect to how vehicles will be able to safely enter and exit the station as well as the volume coming from I-84. He also stated that the P.O.C.D. is a work in progress.

William Stowell suggested the applicant consider addressing the communities concerns with respect to the number of pumps. He also thanked the applicant for making it more pedestrian friendly.

Paul Babarik likes the incorporation of the sidewalks. He questioned the purpose of the food equipment.

Jack Starr confirmed that they are not the operator of the location but believes it will be based on the customer base of the operator.

Chairman Smith likes the architecture of the building but has concerns with the scale. It is not in keeping with the P.O.C.D. and the semirural character of Middlebury. He noticed the same buildings on either side of Route 15, which is a major highway, yet one station has 2 pumps for 4 cars and 3 at the other. Therefore, he questioned why Middlebury would need 10. He encouraged the applicant to scale it back.

Attorney McVerry submitted a letter dated 5-7-15 requesting an extension on behalf of his client. He stated that they intend to comply with the Regulations and will try to answer some of the questions presented this evening at the next meeting.

Motion: to continue the Public Hearing on 6-4-15. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

There was a brief recess that began at 9:23 p.m. and the meeting was called back to order by Chairman Smith at 9:33 p.m.

MINUTE APPROVAL

2. Discussion of the Minutes of the Regular Meeting held on April 2, 2015

Motion: to approve the Minutes of the Regular Meeting held on April 2, 2015. Made by Matthew Robison, seconded by Paul Babarik. William Stowell and Erika Carrington abstained from voting. Unanimous Approval.

OLD BUSINESS

3. Wesson Energy, Inc. – 504-520 Middlebury Road – Application for Site Plan Approval (Application 2015-1-1)

Discussion was tabled.

4. Final Draft of the Middlebury Plan of Conservation & Development

Chairman Smith stated that he met with Matthew Robison and Brian Miller and revised Section. He requested that the members review the revisions and return next month with their comments asking that extra consideration be given commercial buildings that do not front Route 64.

NEW BUSINESS

5. CGS §8-24 referral from the Board of Selectman for the sale of 33+/- acres on Benson Road known as Map 7-02-008

Town Counsel, Dana D'Angelo informed the Commission that the Board of Selectmen received an offer to purchase the referenced property at a sum of \$200,000.00. The Board of Selectmen authorized Mr. St. John to proceed with a contract and is now referring it to this Commission for approval or denial.

Motion: to approve the attached Resolution. Made by Matthew Robison, seconded by William Stowell. Unanimous Approval.

6. George & Diana Nybakken Trustees/Tyler Cove Association-Application to amend Zoning Regulations specifically adding Section 25.7 (Application #2015-4-1)

Attorney Michael McVerry spoke on behalf of the applicant. He has prepared Regulations similar to those of West Shore. The proposal is to take the limited common areas and use those as building lines.

Motion: to accept the application and schedule a Public Hearing on 7-2-15. Made by Erika Carrington, seconded by Paul Babarik. Unanimous Approval.

OTHER BUSINESS

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

None

8. Enforcement Report

Curtis Bosco, ZEO reviewed his enforcement report with the Commission. He also stated that he has attended every ZBA meeting since he became the acting ZEO yet nowhere in his job description does it say that he must attend the ZBA meetings. The ZBA has a secretary whom he feels is up to speed. He informed the ZBA Commission at their last meeting that according to his job description he does not have to attend their meetings, although he would be glad to help the secretary out.

Chairman Smith confirmed to Curtis Bosco, ZEO that he does not have to attend the ZBA meetings.

Curtis Bosco, ZEO stated that he wants to be able to accept the applications and tell the applicants why they need to go to the ZBA. He also stated that they can be accepted 5 days a week as there is full staff present and that he has an assistant who is the assistant to the Building Inspector who informs him when things come in. He also confirmed that Mr. LoRusso indicated to him that the storage of the cars is on a temporary basis.

Chairman Smith stated that if an item is not in the allowed uses, it is not allowed.

9. Adjournment

Motion: to adjourn the meeting at 9:57 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
Vincent LoRusso, 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

May 8 20 15 at 9:00 ^{AM} M.
TOWN CLERK'S OFFICE
MIDDLEBURY, CT

RESOLUTION

**Regarding the sale of 33+/- acres on Benson Road,
known as Map 7-02-008 by the Town of Middlebury
from Baker Residential Limited Partnership**

Edith Schaberg
TOWN CLERK

After review of the appraisal, assessor's card and other supporting documentation, the Planning and Zoning Commission of the Town of Middlebury finds that would be in the Town of Middlebury's best interest to sell 33+/- acres on Benson Road for the sum of \$200,000.00. Therefore,

BE IT RESOLVED:

That in accordance Connecticut General Statute §8-24, the Planning and Zoning Commission of the Town of Middlebury recommends the sale of 33+/- acres on Benson Road, known as Map 7-02-008 . Said transfer shall be for the sum of \$200,000.00. This recommendation shall be submitted to the Board of Selectman.