



# TOWN OF MIDDLEBURY

*Conservation Commission*  
*1212 Whittemore Road*  
*Middlebury, Connecticut 06762*  
*(203) 577-4162 ph*  
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## REGULAR MEETING MINUTES July 27, 2021

### **Members Present:**

Paul Bowler, Chairman  
Joseph Martino  
George Tzezos  
Brian Stroby  
Curtis Bosco

### **Members Absent:**

Mary Barton, Vice Chairwoman  
Keli-Ann Bollard

### **Also Present:**

John Calabrese, P.E.

## **I. CALL TO ORDER**

Chairman Bowler called the Regular Meeting to order at 7:30 p.m.

## **II. ACTION ON MINUTES**

### **June 29, 2021 Regular Meeting**

**Motion:** to approve the Minutes of the June 29, 2021 Regular Meeting. Made by George Tzezos, seconded by Joseph Martino. Unanimous Approval.

## **III. OLD BUSINESS**

### **1. Application #466 – 1556 Straits Turnpike**

Emily Jones, P.E. with Civil 1 Engineering in Woodbury spoke on behalf of the applicant. She stated that there are no wetlands or regulated areas on the property, however, they were asked to return to this Commission. Currently, a small 1-story single residential building exists and the proposal is to add approximately 1,000 square feet to

the rear of the building and perform renovations for the use as a veterinary clinic. They plan to demolish the existing garage and shed in order to obtain more parking area for the clinic. The existing curb cut off of Jo Anne Drive will be utilized and they will access a proposed parking area in front, resulting in an increase in impervious area for which they designed a subsurface detention chamber sized up to the 100 year storm event as well as a contact water quality unit and that discharge goes from the subsurface drainage system into the State of CT catch basin on the corner of Jo Anne Dr. and Straits Turnpike. That permit to connect from the DOT has been obtained. She again acknowledge the error in not coming before this Commission but construction did commence has they did receive approval from Planning & Zoning. Erosion control inspections have continuously been performed and measures have been maintained.

**Motion:** to approve application #466 – 1556 Straits Turnpike per the Draft Resolution. Made by George Tzepos, seconded by Curtis Bosco. Unanimous Approval.

## **2. Application #467 – 288 Watertown Road**

Emily Jones, P.E. with Civil 1 Engineering in Woodbury spoke on behalf the applicant and reviewed the plans with the Commission. The property is approximately 35 acres in size located in the R-40 Zone with 2 lots. They refer to the 1 acre lot as the pond lot and the larger lot is approximately 33 acres. The applicant is looking to create a 6 lot subdivision, with lot 1 containing the existing residence and garage along with 5 new building lots. He is proposing to allocate more land through a lot line revision to the pond lot and open space is proposed in the back of the property. A large wetlands goes through the center of the property which is associated with Hop Brook. It contains a watercourse, wetlands, 100 year floodplain and bisects the property down the middle. The proposal is to keep all of the activity forward of the wetlands area between Watertown Road and the wetland with the only activity in the regulated area being for the construction of the end of the cul-de-sac with some grading to maintain the access drive and the rain garden. Since the property is located in the lower portion of the watershed, she does not recommend detaining stormwater from the site. The time for the peak flow rates for this property to reach Hop Brook are so much shorter than the time for all of the stormwater to come down and peak through the watercourse. She feels that it is better to focus on water quality and get the water out through the brook before the peak runoff hits. Otherwise, the peak runoff rate will be compounded. She acknowledge receipt of the Engineering Review submitted by Calabrese Engineering dated July 25, 2021 and agreed with the recommendations that were referenced.

Joseph Martino questioned how the property would be accessed and voiced his concerns with respect safety.

Chairman Bowler acknowledged his concerns but reminded him that this Commission does not have jurisdiction over said concerns.

Emily Jones, P.E. added that she understands that it will be a topic of discussion with Planning & Zoning. They will be proposing a road entrance on Watertown Road that will become a town road and recognized the importance of sight lines and speed. She went on to confirm that the maintenance road is an existing road but there are no plans for future lots. She understands that they would need to come back for a significant new permit should the applicant want to put lots in at a later time.

Joseph Martino questioned who authorized the removal of the guardrail.

Chairman Bowler again acknowledged his concerns but reiterated that it is not within this Commission's jurisdiction.

**Motion:** to approve application #467 – 288 Watertown Road per the Draft Resolution and the recommendations in the July 25, 2021 Engineering Review submitted by Calabrese Engineering. Made by George Tzepos, seconded by Curtis Bosco. Brian Stroby and Chairman Bowler voted in favor. Joseph Martino opposed. Vote: 4:1. Motion Passed.

### **3. Application #468 – 1395/1405 Middlebury Road**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. They are seeking approval to add 42 parking spaces to the property.

David Hughes, P.E. of 57 Norway Street, Oakville, CT 06779 reviewed the plans with the Commission which included a few options for the parking lot and storm drainage design.

George Tzepos announced for the record that two of his daughters work at Vyne Restaurant.

Chairman Bowler questioned if he thought it was a conflict of interest.

George Tzepos attested that he did not feel it was but wanted it noted for the record.

David Hughes went to state that initially they wanted to put their stormwater system underground and considered creating an outlet structure with a berm that would allow them to use the wetland for stormwater treatment and flow attenuation. Ultimately, they decided that it would not work due to the volume of water. They are considering removing the existing underground storage system and connect 2 systems creating one storage system. Alternatively, in the event they were to enter from the side of the former Junipers Restaurant, the dash line is a better choice across the greenway due to the flatter slope.

Chairman Bowler questioned why they wouldn't put both driveways in.

David Hughes confirmed that they would discuss that possibility.

Dean Yimoyines stated that if it would aesthetically make it more pleasing while maintaining the wetland, then it would take care of both issues.

David Hughes confirmed that the increase does take into account the upper parking lot.

John Calabrese questioned if it would be possible to do some type of water quality with some detention to eliminate the underground.

David Hughes went on to state that if they put a weir, berm and previously approved plantings, a small backwater situation would be created.

Chairman Bowler offered a proposed Draft Resolution for consideration.

**Motion:** to approve application #468 – 1395/1405 Middlebury Road per the Draft Resolution. Made by Brian Stroby, seconded by Joseph Martino. Unanimous Approval.

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

##### **1. APPLICATION #469 – 165 FALCON CREST ROAD**

**Motion:** to add application #469 – 165 Falcon Crest Road to the agenda. Made by George Tzepos, seconded by Brian Stroby. Unanimous Approval.

**Chairman Bowler stated that he specifically asked for any additions to the agenda today before he arrived at the meeting. He will no longer entertain additions as when he asks for something before the meeting, he expects to receive it. He will no longer allow items to be added to the agenda at the time of meetings unless applications or appropriate documentation is provided to him no later than the morning of said meeting.**

Carlos Santos introduced himself to the members of the Commission.

George Tzepos wanted it noted for the record that he lives in close proximity to Mr. Santos, however, he did not feel there is a conflict of interest.

Carlos Santos stated that he asked to come before the Commission in response to a mandate by Flanders Nature Center. He believes their requirement is unreasonable and arbitrary, however, they are requiring that he comply with an old deed restriction regarding the level of the Mirey Dam Pond. He acknowledged that he owns the dam. They suggested that he install a beaver management system. He went on to state that it has been at this level for approximately ten years and all of the houses sit way above the

pond. He feels there is no risk to anyone and foresees the possibility of complaints from the neighbors once the level starts reducing. He respectfully requested that those concerns be directed to Flanders Nature Center. Ultimately, he is seeking approval for a beaver management system and added that the submitted drawings were provided by Flanders Nature Center.

**Motion:** to accept the application #469 – 165 Falcon Crest Road. Made by George Tzepos, seconded by Brian Stroby. Unanimous Approval.

## **V. ADJOURNMENT**

**Motion:** to adjourn the meeting at 8:08 p.m. Made by Chairman Bowler, seconded by George Tzepos. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Brigitte Bessette, Town Clerk  
cc: Conservation Commission Members  
Debbie Seavey, W.E.O.  
Ollie LeDuc, Building Official  
John Calabrese, P.E.  
Terry Smith, P&Z Chairman  
Curtis Bosco, Z.E.O.  
Attorney Robert Smith, WPCA

## **RESOLUTION/REPORT**

Application #466 1556 Straits Turnpike

**WHEREAS:** The Middlebury Conservation Commission for the Town of Middlebury has received an application on June 29, 2021 from Encompass 360 LLC map entitled "Site Plan Grading Plan Erosion Control Plan" dated November 5, 2020 with revision date of December 3, 2020;

**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 discharge of storm drainage will not have a substantial impact on the regulated area.
- (2) Prior to the issuance of a certificate of occupancy, the engineer shall certify all drainage and site work has been completed in accordance with the approval.
- (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.

July 27, 2021

## **RESOLUTION/REPORT**

Application #467 288 Watertown Road

**WHEREAS:** The Middlebury Conservation Commission for the Town of Middlebury has received an application on June 29, 2021 from Peter Vileisis map entitled "Grading Plan Utility Plan Erosion Control Plan" dated June 1, 2021;

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

**WHEREAS:** The application was referred to Town Engineer, John Calabrese whose comments have been considered by the Commission;

**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 discharge of storm drainage and installation of a rain garden will not have a substantial impact on the regulated area.
- (2) Prior to permit issuance, revised plans showing rain garden planting plan and comments from John Calabrese shall be submitted.
- (3) Prior to issuance of building permits, permanent wetland markers shall be installed on Lots 2,3 and 4.
- (4) Weekly site inspection reports shall be submitted.
- (5) The engineer shall submit certification indicating all site work has been completed in accordance with the approved plans.
- (6) The applicant shall notify the enforcement officer forty-eight (48) hours prior to the commencement of work and upon its completion.
- (7) 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.
- (8) 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.
- (9) 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.

- (10) It is the applicant's responsibility to give notification to the Army Corps of Engineers and the Department of Environmental Protection if necessary.

July 27, 2021



### **RESOLUTION/REPORT**

Application #468 1395/1405 Middlebury Road

**WHEREAS:** The Middlebury Conservation Commission for the Town of Middlebury has received an application on June 29, 2021 from 1365, LLC map entitled "1395 & 1405 Middlebury Road, Middlebury, CT Prepared for – 1365 LLC Proposed Parking Lot" dated June 25, 2021.

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

**WHEREAS:** The application was referred to Town Engineer, John Calabrese whose comments have been considered by the Commission;

**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 parking and drainage facilities within the regulated area.
- (2) Prior to permit issuance, revised plans shall be submitted to include:
  - Change entrance configuration to safer more level & better visibility location
  - Addition of second access from southern parking lot to new lot
  - Possible removal of previous approved parking lot drainage system. Finalize storm water system/design with Deb Seavey and John Calabrese
  - Engineer shall submit weekly site inspection reports
  - The engineer shall certify all work has been completed in accordance with the approved plans
  - Planting plan from George Logan shall be submitted and reviewed by town staff.
- (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.

July 27, 2021