



TOWN OF MIDDLEBURY

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

REGULAR MEETING MINUTES October 25, 2022

Members Present:

Paul Bowler, Chairman
George Tzepos
Peggy Gibbons
Curtis Bosco

Members Absent:

Mary Barton, Vice Chairwoman
Brian Stroby
Joseph Martino

Also Present:

John Calabrese, P.E.
Deborah Seavey, W.E.O.

I. CALL TO ORDER

Chairman Bowler called the Regular Meeting to order at 7:32 p.m.

II. ACTION ON MINUTES

September 27, 2022 Regular Meeting

Motion: to approve the Minutes of the September 27, 2022 Regular Meeting. Made by George Tzepos, seconded by Curtis Bosco. Unanimous Approval.

III. OLD BUSINESS

1. Application #484 – 1000 Southford Road

Paul Zymanski, P.E. of Arthur H. Howland Associates, P.C. 143 West Street, Suite E, New Milford, CT 06776 stated that in 2010 approval was granted by this Commission for the exact site plan before them this evening for a gas station/convenience store/car wash. Following that approval, the property owner accumulated an easterly strip on the subject

property. They then came before this Commission and received approval for a grocery store, which was never constructed. At the present time, the applicant is seeking approval for the original plan which was approved in 2010 with no modifications. With respect to the car wash, the patron will pay either at the pump or within the store and proceed to the cueing line. Upon entering, the vehicle is pretreated with an undercarriage wash, known as an In-Bay Automatic Car Wash. An arm circles the vehicle which sprays soap and water. Each of the three (3) 1000 gallon tanks has two (2) chambers, with a total of six (6) chambers. Each 500 gallon chamber allows solids to settle out prior to going into the public sewer system, while some of the water is recycled. Prior to the vehicle leaving the car wash, it is blown dry in a 360° area before the patron exits the garage. The garage doors are always down while the vehicle is being treated.

Motion: to approve application #484 – 1000 Southford Road per the Draft Resolution. Made by George Tzepos, seconded by Curtis Bosco. Unanimous Approval.

IV. NEW BUSINESS

1. Permit Modification #478 – 43 Sandy Beach Road

Garrett Moore of 389 White Deer Rock Road and owner of 43-45 Sandy Beach Road stated that he is seeking approval for a modification of an application that was previously approved. He reminded the Commission that the house will be for a disabled gentleman and they planned to keep the house as low to the ground as possible. Once construction commenced, it was determined that the foundation needed to be raised two (2) feet for septic system purposes. Previously, a sidewalk was planned to be positioned around the side of the house and the front of the house was to be brick pavers approximately six (6) feet wide. Now that the house is elevated, a deck is required and will be positioned on the north side as well as the front. He submitted and reviewed photos as well as architectural plans with the Commission. There will be four (4) sonotubes at the 4-foot level. The revised site plan now depicts the deck that surrounds both the north and west side of the house. The north side includes a covering and he also delineated where the walls will go on the property. He respectfully requested that the application be approved this evening in order for the gentleman to move in in the near future.

Deborah Seavey, W.E.O. stated that the Commission normally does not approve modifications on the evening they are presented.

George Tzepos added that if it involves minimal activity, it can be done.

Garrett Moore expressed his understanding should the Commission need more time to evaluate the proposed modification, however, it is his hope to move the gentleman in as soon as possible since he currently resides in a nursing home.

Curtis Bosco stated that he visited the site and is minimal.

Peggy Gibbons concurred that it is minimal. She then questioned if there would be a ramp.

Garrett Moore pointed out the location of the ramp on the site plan.

Motion: to approve Permit Modification #478 – 43 Sandy Beach Road due to minimally invasive action. Made by Curtis Bosco, seconded by Peggy Gibbons. George Tzepos abstained from voting. Unanimous Approval.

2. Application #486 – 316 Charcoal Ave

Brain McNally stated that he is seeking approval to put a 20' X 40' pool in his rear yard between the house and the reserve system for the possible need of another septic system. He acknowledged the existence of the intermittent water course, but declared that it has been dry since he moved in and the pool will be positioned approximately 80-90 feet away from said watercourse.

Motion: to accept application #486 – 316 Charcoal Ave. Made by Curtis Bosco, seconded by George Tzepos. Unanimous Approval.

George Tzepos added that members may do a site visit.

3. Permit Modification #481 – 39 Sandy Beach Road

Jim Mele shared that he received a letter from the State of Connecticut Department of Public Health, dated August 19, 2022, indicating that if the applicant downsizes the structure to its original size (800 square feet), they would permit them to put a in a 2,000 gallon holding tank. It will be gravity fed and will not have a shower, only a half bath and sink. The original approval for a 956 square foot non-habitable shack would not have allowed them to have a holding tank. In light of said letter, the applicant is seeking approval for an 800 square foot summer cottage which will be two 2 feet further from the lake. It is his understanding that he Building Department will approve, provided approval is granted by this Commission as well as the Planning & Zoning Commission.

Motion: to accept Permit Modification #481 – 39 Sandy Beach Road. Made by George Tzepos, seconded by Peggy Gibbons. Unanimous Approval.

4. Application #487 – 75 Gleneagle Road

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. Lot 9 in the Three Mile Hill Estates Subdivision sits at the top of Three

Mile Hill and was approved in the late 80's by the town. One lot at the bottom of the hill. Mr. Tedesco's company bought it in March of 2022 and is seeking approval to construct a one-family house. Said lot is 4.67 acres of which approximately 3 acres of it consists of wetlands.

Scott Meyers, P.E. of Meyers Associates, P.C. spoke on behalf of the applicant and identified the subject property as one of the last lots left on the subdivision and contains the most wetlands. He pointed out the dry island as well as the slope adjacent to Gleneagle that is dry. They are proposing to construct a house within the zoning setbacks, a driveway, and a 30 foot backyard and a terrace down to the wetlands to provide for a developable area. The wetland fill calls for 4,800 square feet. He expects that the house will require two (2) foundations due to the slope. The structure will sit in the upland area, however the rear yard is mostly wetlands. There will be water and sewer with a sewer ejector.

George Logan, Soil Scientist with REMA Ecological Services, LLC submitted and reviewed his report dated October 5, 2022 with the Commission. He confirmed that he is in agreement with the wetland delineation previously performed by David Lord, Soil Scientist. Within his report, he focused on the aerial photos depicting the wetlands and the location of the proposed vernal pool. He has had success with similar projects.

Chairman Bowler requested additional remediation to their proposal of filling in 4,800 square feet of wetlands and replacing it with an 800 vernal pool.

George Logan confirmed that it can be done, however, they would need to take down mature trees in order to do so.

Chairman Bowler stressed the importance of having to walk the site.

Curtis Bosco stated that he walked the property in the past.

Scott Meyers, P.E. confirmed that there is a conservation easement.

Chairman Bowler added that a 3,500 square foot house was proposed many years ago.

Attorney Michael McVerry indicated that the LoRussos bought the property from Timex, which contained deed restrictions for minimal houses. Mr. Tedesco then had it reduced to build a 2,800 square foot house. He added that Mr. Logan's report contains an enhancement of the wetlands with the removal of the invasive species.

Motion: to accept application #487 – 75 Gleneagle Road. Made by George Tzezos, seconded by Curtis Bosco. Unanimous Approval.

5. Application #488 – Hunting Ridge

Bill Griffin spoke on behalf of Hunting Ridge Developers LLC. In his attempt to obtain permits to get foundations in before winter, Deborah Seavey, W.E.O. advised him that some paperwork was missing. He conferred with Smith & Co. who were the original engineers on the job. He filed paperwork with this Commission that refers to the first seven (7) items on the 2004 Resolution. He and Mark Riefenhauser, P.E. of Smith & Co. recently walked the property and declared that everything that he said was previously done then is done.

Deborah Seavey, W.E.O. specified that not all of the conditions outlined in the 2004 Resolution have been satisfied, including the certification from the engineer as well as the compaction and sift tests for the basins.

Bill Griffin replied that the certification was the only item he did not have and the basins are now 14-45 years old and is confident they are fine.

Deborah Seavey, W.E.O. questioned if the basins were planted.

Bill Griffin confirmed they were, however, they are overgrown as they have not been maintained in many years. It is their intention to go back in and have Deborah Seavey, W.E.O. inspect it once completed.

Deborah Seavey, W.E.O. also stated that a final report from a wetland consultant is required.

Bill Griffin added that this 23-lot subdivision was approved in 2004 and revised in 2010 for other items on the list.

Deborah Seavey, W.E.O. shared that the permit expired and that outstanding items that have not been met from the approval. She also confirmed that this should be a new application.

Bill Griffin expressed his confusion as it is his understanding that according to and certified by the engineer, everything in the Resolutions was accomplished by 2010 and it was still in effect at that point in time. As far as they are concerned, it is still approved.

John Calabrese, P.E. declared that because the wetlands permit expired, any activity on the lot requires a new application.

Bill Griffin stated that the two (2) subject lots (1 & 2) do not contain wetlands and are approximately 600-700 feet from wetlands. He claimed that a report from a wetland consultant was submitted in 2010.

Deborah Seavey, W.E.O. replied that she never received a report and that the bond is still being held.

Motion: to accept incomplete application #488 – Hunting Ridge and allow the applicant to move forward with Lots 1 & 2 provided the applicant completes the application. Additionally, no Certificate of Occupancy shall be issued unless all conditions in the attached September 28, 2004 Resolution are satisfied and this current application is ultimately approved by this Commission. Made by George Tzepos, seconded by Curtis Bosco. Unanimous Approval.

6. Application #489 – 75 Lake Shore Drive

Motion: to add application #489 – 75 Lake Shore Drive to the agenda. Made by George Tzepos, seconded by Curtis Bosco. Unanimous Approval.

There was no one present.

Deborah Seavey, W.E.O. stated that the application is incomplete.

Motion: to accept application #489 – 75 Lake Shore Drive. Made by Curtis Bosco, seconded by George Tzepos. Unanimous Approval.

V. ADJOURNMENT

Motion: to adjourn the meeting at 8:25 p.m. Made by Curtis Bosco, 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.
Mark Lubus, Building Official
John Calabrese, P.E.
Terry Smith, P&Z Chairman
Curtis Bosco, Z.E.O.
Attorney Robert Smith, WPCA

RESOLUTION/REPORT

Application #484 1000 Southford Road

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received an application on August 30, 2022 from Meadow Realty LLC map entitled "Site Development Plan" dated August 11, 2011 with revision date of August 1, 2022;

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 construction of gas station/convenience store/car wash, parking and drainage facilities within the upland review area will not have a substantial impact on the regulated area.
 - (2) Prior to permit issuance, drainage calculations shall be provided and reviewed by the town engineer.
 - (3) Weekly soil erosion control inspections shall be conducted with said reports be provided to the commission.
 - (4) The engineer shall certify all site work has been completed in accordance with the approved plans.
 - (5) As-built of the detention basin shall be submitted prior to the issuance of a certificate of occupancy.
 - (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.
October 25, 2022

RESOLUTION

Application for Hunting Ridge Estates

- WHEREAS:** The Middlebury Conservation Commission for the Town of Middlebury has received an application on July 27, 2004 From Vincent J. Sorrentino map entitled "Sediment & Erosion Control Plan Hunting Ridge Estates" dated July 28, 2004 with latest revision date of September 24, 2004;
- 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 consultant, 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 road crossing, setback encroachments, installation of detention basins and discharge of drainage will not have a substantial impact on the regulated area.
- (2) Prior to permit issuance, all plan sheets shall be signed and sealed.
- (3) Prior to permit issuance, detail planting plans for the detention basins shall be submitted and acceptable.
- (4) Prior to permit issuance, a conservation easement shall be submitted for lot 23 including no disturbance within 50 feet of the wetlands.
- (5) Prior to permit issuance, permanent wetland markers shall be installed every 100 feet along the 50 foot wetland setback for lots 16,17,18, and 23
- (6) Prior to permit issuance, a \$25,000.00 cash wetland completion bond shall be submitted for the completion and plantings of all basins. Said bond shall remain in place for three growing seasons and with a final report from a wetland consultant indicating all plants have survived.
- (7) Prior to permit issuance, all comments from John Calabrese shall be revised on the plans and found acceptable with Mr. Calabrese.
- (8) The applicant has offered future resubdivision restrictions for all lots.
- (9) The site engineer shall certify the basins have been completed in accordance with the approved plans. Said certification shall be submitted to the commission.

- (10) Copies of sieve and compaction tests for the basins shall be submitted.
- (11) The fieldstone wall along detention basin #2 shall be installed prior to any major basin activity.
- (12) No activity shall commence on building lots until all road activity has been completed and stabilized.
- (13) No new phase of construction shall commence until the previous phase has been stabilized to the satisfaction of the wetlands officer.
- (14) The applicant shall notify the enforcement officer forty-eight (48) hours prior to the commencement of work and upon its completion.
- (15) 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.
- (16) 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.
- (17) 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.
- (18) It is the applicant's responsibility to give notification to the Army Corps of Engineers and the Department of Environmental Protection if necessary.

September 28, 2004