



TOWN OF MIDDLEBURY

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

REGULAR MEETING MINUTES Tuesday, May 30, 2023 7:30 P.M.

REGULAR MEMBERS PRESENT

Paul Bowler, Chairman
Mary Barton, Vice Chairwoman
George Tzepos
Joseph Martino

REGULAR MEMBERS ABSENT

Peggy Gibbons
Curtis Bosco
Brian Stroby

ALSO PRESENT

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

I. CALL TO ORDER

Chairman Bowler called the Regular Meeting to order at 7:50 p.m.

II. SHOW CAUSE HEARING

1. 20 Juniper Drive

Chairman Bowler called the Show Cause Hearing to order at 7:51 p.m.

There was no one present.

Motion: to continue the Show Cause Hearing and keep a stay in place. Made by Paul Bowler, seconded by George Tzepos.

Discussion:

Mary Barton questioned how long ago they were notified.

Chairman Bowler replied since November.

Mary Baron asked why it would be continued and suggested that they should move forward and make a decision.

Chairman Bowler asked her to make a motion and then proceeded to withdraw his motion.

George Tzepos withdrew his second to the motion.

Motion withdrawn.

Motion: for the order to stay in effect and publish a legal notice and pursue to enforcement. Made by Mary Barton, seconded by George Tzepos. Unanimous Approval.

III. ACTION ON MINUTES

1. **April 25, 2023 Regular Meeting**
2. **May 1, 2023 Special Meeting**
3. **May 10, 2023 Special Meeting**

Motion: to approve the above referenced minutes as submitted. Made by George Tzepos, seconded by Joseph Martino. Unanimous Approval.

IV. OLD BUSINESS

1. Application #495 – White Deer Rock Road - Lots 009 & 007A

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. Originally there were three (3) lots but in accordance with the deed restriction, the property now consists of two (2) lots which Garrett Moore, Jr. purchased approximately 4-5 years ago. Approval is being sought to build two (2) houses and sewer. They sit on Lake Quassapaug on a right-of-way from White Deer Rock Road. The property around it is owned by White Deer Rock Land Corporation, which is essentially the Highfield Golf Course people.

Ron Wolff, P.E. of Wolff Engineering reviewed the plans with the commission and pointed out the old lot line.

Chairman Bowler asked how many cottages were on the property at one time.

Ron Wolff, P.E. replied that there were eight (8) cottages and they all had separate septic systems in the previously approved plans (approximately in 2007).

Mary Barton asked if they looked at other ways to be further away from the wetlands.

Ron Wolff, P.E. responded by stating that the old cottages were closer than where the footprints are for the two (2) new proposed houses.

Mary Barton questioned how close they are to the wetland delineation and to the lake.

Ron Wolff, P.E. stated they are approximately 55 feet from the lake, with the closest corner being 50 feet and an estimated 39-40 feet from wetland. The old cottages were approximately 40 feet from the lake and 20 feet from the wetlands.

Garrett Moore, Sr. confirmed that much of the area is overgrown with low brush.

Ron Wolff, P.E. added that there are some concrete slabs. He pointed the two (2) sets of stormceptor systems on the plans and confirmed that they added driveway drainage to each lot.

Mary Barton asked if they plan to expand the dock or keep it in the same place.

Ron Wolff, P.E. replied that there is a dock.

Attorney McVerry clarified that they plan to remove several of the docks that have been there and will put two (2) new docks in.

Ron Wolff, P.E. added that some have already been removed.

Mary Barton asked if a wall along the edge of the water was being proposed.

Ron Wolff, P.E. stated that there is a prior approve from 2019 for it. The silt fence is 40 feet from the lake. He confirmed they incorporated the comments of Deborah Seavey, W.E.O. and John Calabrese, P.E. They narrowed the driveways, revised the culverts on the part of the driveway on the White Deer Rock Land Corporation side with reinforced concrete. The zoning table has been provided with wetland areas as well as the impervious coverage for each lot. The wetland impact for parcel 7A is 48 square feet, which is a walkway while the wetland impact for parcel 8 is 28 square feet.

Mary Barton questioned if the docks would remain year-round.

Garrett Moore, Sr. confirmed that they would remain.

Ron Wolff, P.E. went on to state that there would be no beach areas. Details have been added for the stonewalls.

Mary Barton asked if there was any other way to develop the properties.

Ron Wolff, P.E. replied that they spent much time laying them out, made the lots more conforming than they were before, and pulled the structures further away from the lake.

Deborah Seavey, W.E.O. confirmed that she reviewed the soil erosion control plan and is satisfied. She verified that the draft resolution does not include a bond.

Mary Barton requested that a site bond be added and that Ron Wolff, P.E. provide an estimate for site stabilization.

John Calabrese, P.E. acknowledged that he met with Ron Wolff, P.E. and the changes were made according to his recommendations.

Ron Wolff, P.E. added that the septic systems are outside the regulated area on each lot

Motion: to approve application #495 – White Deer Rock Road - Lots 009 & 007A per the Draft Resolution with the inclusion that what is on the plan is what is permitted. Anything that is going to be revised, the applicant must return to this commission before it is done. A site stabilization bond must be posted and determined by the site engineer and approved by the town engineer. Made by Mary Barton, seconded by Paul Bowler. George Tzepos abstained. Unanimous Approval.

2. Permit Modification #478-B – 43 Sandy Beach Road

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant, Garrett Moore, Sr. who purchased parcels 43 & 45, each containing a house. In April of 2022, approval was granted to demolish two (2) existing structures and to construct a new residence and carriage house for a gentleman to live there. It was then modified in October of 2022. During the process of trying to obtain a CO, it was determined that there were two (2) sets of stairs constructed leading to the lakeside and that the beach had been minimally expanded.

Garrett Moore, Sr. provided photos that he took 10 days prior and stated that more work has been done since.

Mary Barton questioned if the additional work was part of the modification.

Garrett Moore, Sr. replied no. He added that due to the fact that there was such a significant change in the elevation, they need to construct the steps down to the beach area.

Motion: to approve Permit Modification #478-B – 43 Sandy Beach Road per the Draft Resolution and the understanding that nothing else should be done other than what is on the plan. Otherwise the applicant must return to this commission. Made by Mary Barton, seconded by Paul Bowler. George Tzepos abstained. Unanimous Approval.

V. NEW BUSINESS

1. Application #496 – 390 White Deer Rock Road

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of Garrett Moore, Jr., the owner of 390 White Deer Rock Road (Note – Error on agenda which referenced 383 White Deer Rock Road). He is seeking to erect a greenhouse accessory building within the lakefront setback.

Garrett Moore, Sr. provided a depiction of something similar they plan to construct. He added that it will be a 15' X 18' glass building and contain a hot tub, which will be utilized year-round.

Garrett Moore, Jr. clarified that it will be a solarium with a hot tub and cold plunge. There will be no water or septic going to the building, although there will be electric.

Mary Barton asked how far away from the edge of the water it will be.

Ron Wolff, P.E. replied 104 feet and that there will be no grading. The foundation will be set level.

Motion: to accept application #496 – 390 White Deer Rock. Made by Mary Barton, seconded by Joseph Martino. George Tzepos abstained. Unanimous Approval.

2. Application #497 – Sycamore Place-Washington Drive

John Paul Garcia, P.E. of Garcia & Associates, 190 Fairwood Road, Bethany, CT 06524 spoke on behalf of the applicant. The property consists of approximately 60 acres located on the west side of Washington Drive and north of the Oxford/Middlebury town line. They are proposing 11 lots on 1,200 feet of road and 30+ acres is being offered to the town. They met with town staff and submitted a soils report and drainage report.

Luke Sofair, P.E. confirmed that it will be 11 single-family lots on 1,200 feet of road, intended to be public road. He verified that they met with Deborah Seavey, W.E.O., John Calabrese, P.E. and First Selectman, Ed St. John. Some staff comments have been incorporated. They also met with W.P.C.A. and received approval for the flow rate to put on public sewer. The design has yet to be approved, but will be a low pressure sewer system in the street, public water on all of the lots with individual low pressure grinder pumps in front of each lot and a 4" main on the street. It is his belief that this has been before this commission in 2005, which involved a more extensive plan that involved several wetlands crossings. The current plan is more moderate and will not have any direct impact to the wetlands.

Mary Barton asked Mr. Sofair to review the regulated activities.

Luke Sofair, P.E. replied it will only be the detention basin that is in the upland review area. All of the road, house and driveway is out of the upland review area. The road drainage system is designed such that there is no post development increase in runoff

Mary Barton questioned why the detention basin is on the lot.

Luke Sofair, P.E. responded that they currently have it as an easement as they weren't sure if the town would want it to be part of the open space or as part of an easement. Lot 3 is such that if they need to take the back part of the lot off, it would still meet all of the requirements for zoning.

Mary Barton expressed her opinion that it is not a good idea.

John Paul Garcia, P.E. commented that many towns will not take a detention pond and that it depends if the selectman decides if they want it as an easement or fee simple.

Mary Barton voiced her concerns with respect to maintenance.

John Paul Garcia, P.E. added that their pond designs are extremely conservative and the subject road will not have a large sediment load. Most of the sediment should get trapped

in the catch basin sumps. Whatever makes it by the catch basins will be stopped.

Luke Sofair, P.E. reviewed the details of the hydrodynamic separator.

John Paul Garcia, P.E. asked John Calabrese, P.E. if the town taking it as a town road was still under discussion.

John Calabrese, P.E. confirmed that it would be something discussed during Planning & Zoning.

George Tzepos requested that the detention pond be staked.

John Paul Garcia, P.E. agreed to flag an access, center line of the road and the detention pond.

Motion: to accept application #497 – Sycamore Place-Washington Drive. Made by Mary Barton, seconded by George Tzepos. Unanimous Approval.

VI. ADJOURNMENT

Motion: to adjourn the meeting at 8:26 p.m. Made by George Tzepos seconded by Mary Barton. 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 #495 White Deer Rock Road Lots 009 & 007A

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received an application on April 25, 2023 from Garrett M Moore, Sr. map entitled "Site Plan and Subsurface Sewage Disposal Plan" dated February 20, 2022 with revision date of May 30, 2023;

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 construction of two residential dwellings, wells, driveways, septic tanks, and associated grading within the upland review area and upgrading the existing driveway crossings will not have a substantial impact on the regulated area.
 - (2) Prior to permit issuance, revised plans shall be submitted to reflect:
 - Driveway pipes to be RCP
 - Details of the free standing stone walls
 - Note to reflect if docks are staying or being removed or replaced
 - Note to reflect that all storm chambers be included on the as-built of each property prior to the issuance of a certificate of occupancy
 - A site stabilization bond shall be in place until permanent stabilization has been established. Bon amount shall be determined by the site engineer and confirmed with the Town Engineer
 - (3) **The applicant is strongly reminded that if any activity deviates from its original approval, he must file for a new application or modify the existing approval.**
 - (4) The applicant shall notify the enforcement officer forty-eight (48) hours prior to the commencement of work and upon its completion.
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- (5) 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.
- (6) 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.
- (7) 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.
- (8) It is the applicant's responsibility to give notification to the Army Corps of Engineers and the Department of Environmental Protection if necessary.

May 30, 2023

RESOLUTION/REPORT

Permit Modification #478-A 43 Sandy Beach Road

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received a permit modification on April 25, 2023 from Garrett M Moore, Sr; map entitled "Final As-Built showing Tyler Cove LCE 16-28" dated January 25, 2022 with revision date of March 23, 2023;

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 various gravel and beach areas and various steps within the lake upland review area will not have a substantial impact on the regulated area.
 - (2) All original conditions still apply.
 - (3) **The applicant is strongly reminded that if any activity deviates from its original approval, he must file for a new application or modify the existing approval.**
 - (4) The applicant shall notify the enforcement officer forty-eight (48) hours prior to the commencement of work and upon its completion.
 - (5) 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.
 - (6) 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.
 - (7) 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.
 - (8) It is the applicant's responsibility to give notification to the Army Corps of Engineers and the Department of Environmental Protection if necessary.
May 30, 2023.
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