



TOWN OF MIDDLEBURY

Conservation Commission
1212 Whittemore Road
Middlebury, Connecticut 06762
(203) 577-4162 ph
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REGULAR MEETING MINUTES November 28, 2023

REGULAR MEMBERS PRESENT

Paul Bowler, Chairman
Joseph Martino
George Tzepos
Joseph Bernardi
Curtis Bosco

REGULAR MEMBERS ABSENT

Mary Barton, Vice Chairwoman
Peggy Gibbons

ALSO PRESENT

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

I. CALL TO ORDER

Chairman Bowler called the Regular Meeting to order at 7:29 p.m.

II. ACTION ON MINUTES:

October 31, 2023 Regular Meeting

Motion: to accept the minutes of the October 31, 2023 Regular Meeting. Made by Joseph Bernardi, seconded by George Tzepos. Unanimous Approval.

III. OLD BUSINESS

1. Application #501 – 20 Juniper Road

Maria Tapia stated that she was cited for cutting down trees in the setback area. Therefore, she submitted an application for a restoration plan with plantings.

George Tzezos asked Deborah Seavey, W.E.O. if she was satisfied with the plan.

Deborah Seavey, W.E.O. reiterated that this was from a cease and desist and confirmed that she is satisfied with the plantings.

Chairman Bowler questioned if John Calabrese, P.E. had anything to add.

John Calabrese, P.E. replied that he did not.

Motion: to approve application #501 – 20 Juniper Road per the Draft Resolution. Made by George Tzezos, seconded by Joseph Bernardi. Unanimous Approval.

Motion: to lift the May 23, 2023 Cease & Desist Order for 20 Juniper Road. Made by Joseph Bernardi, seconded by George Tzezos. Unanimous Approval.

Maria Tapia asked when she could expect the Cease & Desist Order to be lifted.

Deborah Seavey, W.E.O. replied that she would take care of it on the land records the following day.

Maria Tapia questioned when she should plant the plantings.

Deborah Seavey, W.E.O. recommended next springtime as it is too late now.

2. Application #502 – 1082 Southford Road

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant, Wiggles Pet Resorts, LLC. She submitted revised plans for the record. She confirmed receipt of the Engineering Review from John Calabrese, mistakenly dated October 25, 2023 and intended to be dated November 25, 2023. She then proceeded to review her response letter dated November 27, 2023 with the commission. Additionally, she confirmed receipt of the comment review letter, dated November 8, 2023, from Deborah Seavey, W.E.O. and declared that her requested revisions were made.

George Tzezos questioned who GRNB, LLC is.

Emily Jones, P.E. replied that she was not sure, but that a gentleman she believes to be Chris Laaman is the owner of Wiggles Pet Resorts.

George Tzezos again asked if she knew who the principals of the company GRNB, LLC are.

Emily Jones, P.E. again replied that she did not.

Curtis Bosco questioned if he needed to know.

Chairman Bowler explained that George Tzezos was inquiring due to where he lives and that there might be a conflict. He added that George Tzezos could recuse himself.

George Tzezos stated that he doesn't need to if he does not know who they are.

Motion: to approve application #502 – 1082 Southford Road per the Draft Resolution. Made by Curtis Bosco, seconded by Joseph Bernardi. Unanimous Approval.

3. Application #503 – 305 Burr Hall Road

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicants who have a home on said property. She reviewed the plans with the commission and stated that they have not changed since last month. She confirmed receipt of the comment review memo from Deborah Seavey, W.E.O. that basically stated that if all improvements and erosion control went in as presented, that there would be no issues to the wetlands. She proceeded to explain that the site is on a hillside, with wetlands on both sides. The only area of the site outside of the regulated area is near where the existing house, gravel driveway and deck with stairs and a stone patio. They are proposing to put in a pool with an additional stone patio around the pool. It will consist of dry laid rock, will not have grout and all of the water that comes through should infiltrate into the stone subbase. They do not anticipate any additional runoff. A planting plan is also being proposed in order to replace any necessary minor clearing to stabilize the bank. There is not a lot of room outside of the regulated area.

Chairman Bowler asked her to repeat her initial comment.

Emily Jones, P.E. reiterated that since that last meeting she received the review memo from Deborah Seavey, W.E.O. stating that if the improvements go in according to plan and the erosion control plan is followed, that everything appears to be adequate on the plan with no impact to the wetlands. Therefore, she did not change the plans since last month.

Chairman Bowler questioned if Deborah Seavey, W.E.O. or John Calabrese, P.E. had

anything to add, to which both replied that they did not.

Motion: to approve application #503 – 305 Burr Hall Road per the Draft Resolution. Made by George Tzepos, seconded by Joseph Bernardi. Unanimous Approval.

4. Application #504 – Madison Court-Lot 3

Albana Lame stated that they are in the process of building a home and as they were going through the permit process, Deborah Seavey, W.E.O. requested that she come before this commission due to the change in the setback requirement which was 50' at the time of the previous approval in 1998, but has since been changed to 100'.

Joseph Martino stated that he knows it did not happen, but recalled and questioned why Ed Bushka (original owner) wanted to run drainage down to the next street and go through the yards.

John Calabrese, P.E. clarified that it was one of the plans but on the approved plan, the water ended up going out onto Park Road.

Curtis Bosco questioned if Deborah Seavey, W.E.O. was satisfied with the plans according to her draft resolution.

Deborah Seavey, W.E.O. confirmed that she was and pointed out that she included in the draft resolution, the requirement that the applicant submit a new application for any future pool.

Albana Lame expressed her understanding of said requirement.

Motion: to approve application #504 – Madison Court-Lot #3 per the Draft Resolution. Made by George Tzepos, seconded by Joseph Martino. Unanimous Approval.

IV. NEW BUSINESS

1. Application #505 – 13 West Lake Road

Scott Meyers, P.E. of Meyers Associates P.C. spoke on behalf of the applicant, Andrew Robinson, and reviewed the plans with the commission. There is an existing cottage that the applicant is proposing to reconstruct, similar to the other cottages that have been reconstructed on that side of the lake. Sewer and water systems were put in some years

ago, leaving each unit with a separate grinder pump and water service, allowing him to do the reconstruction. The former cottage is in the footprint of the main area of the new cottage and he is also proposing to add on a garage, creating an L-shaped structure. The driveway will be gravel, causing no increase in impervious area. Several impervious sidewalks currently surround the cottage and lead to the lake, but will be removed and replaced with lawn and landscape. Dead trees and those in poor condition will be removed, while others will remain. They are also proposing to construct a new removable dock on the lake and replace the existing gravel patio area with grass pavers. The property is 0.47 acres in size and the total regulated area of disturbance is 0.22 acres. He acknowledged that most of the area that is 150' from the lake is regulated.

Andrew Robinson questioned if he needed to wait for approval to remove the dead and unsafe trees.

Deborah Seavey, W.E.O. confirmed that selective tree removal is allowed.

Andrew Robinson stated that there is an easement/right-of-way for the driveway that they will maintain and ultimately block off the other side.

Scott Meyers, P.E. added that they negotiated an easement with the unit next door.

George Tzezos questioned if it was a seasonal cottage.

Andrew Robinson replied that the son of the previous owner resided at the cottage for a number of years.

George Tzezos questioned where the septic will be.

Scott Meyers, P.E. responded that the septic is in the upper field for the entire community.

Motion: to accept application #505 – 13 West Lake Road. Made by George Tzezos, seconded by Joseph Bernardi. Unanimous Approval.

2. Application #506 – 9 Bristol Road

Scott Meyers, P.E. of Meyers Associates P.C. spoke on behalf of the applicant, Round Cove Trust, which is a trust owned by the Fabers. They purchased the property from Dean Yimoyines approximately one (1) year ago. He reviewed the plans with the

commission and explained that they are proposing to install a horse farm. The wetlands were recently redelineated by George Logan of Rema Ecological Services, LLC. He clarified that Bristol Road is the private road that leads and traverses through other properties that have access rights, but the property has a driveway off of Middlebury Road. The tennis court project area with retaining walls was abandoned by Mr. Yimoyines. Currently the area has a retaining wall and is completely level with the grass and the applicant is proposing to designate said area as a riding arena for the horses. The horse barn will be located up the hill and contain a bathroom and room/office upstairs. A septic and pump chamber are proposed to serve as a small septic system on the side of the hill (east side of property). Test holes were performed with the Health Department for suitability of the soils. They also want to have a paddock area for the horses, which would be the closest area. He added that a berm was constructed along the wetland in conjunction with the prior approval for the tennis court, which runs along the westerly side of the property. They plan to construct it the remainder of the way up past the paddock area in order to protect the wetland. A full storm drainage system was previously put in. The regulated area of disturbance is 0.53 acres.

Ryan Faber added that they plan to bring an electrical line to the barn. The existing pump house will supply water for the barn.

Deborah Seavey, W.E.O. questioned how the manure will be handled.

Ryan Faber replied that there will be a dumpster in the back of the barn for disposal purposes and will eventually be taken off the site.

George Tzezos questioned if the dumpster will be covered.

Ryan Faber responded that it could be and that they do have canopies that go over the top, but they have not yet contracted with anyone.

Joseph Bernardi suggested the use of a permanent cover to help prevent water from entering the dumpster and leaching out.

Ryan Faber welcomed the recommendation.

George Tzezos voiced his concerns with respect that that possibility and questioned how far away the lake is.

Scott Meyers, P.E. replies that the closest spot is approximately 500'.

George Tzepos stated that there were issues with the tennis courts when he walked the property at the time of the previous application.

Deborah Seavey, W.E.O. agreed that there were many problems then.

Curtis Bosco asked if it would be specced for the next meeting.

Scott Meyers, P.E. confirmed that he will work with John Calabrese, P.E., stake that property and instructed that members to go through the Middlebury Road access.

Motion: to accept application #506 – 9 Bristol Road. Made by George Tzepos, seconded by Joseph Bernardi. Unanimous Approval.

3. Application #507 – 69 Nichols Road

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant, Middlebury Land Trust. They are proposing to put in a dog park on the large vacant parcel of land. She believes Nichols Road is discontinued but not officially abandoned. A CT water easement access runs through the property with a significant water main service through said area. The road currently ends at an old foundation from a house that has since been removed. The property is primarily used for active recreation and trails. They plan to improve Nichols Road as a driveway and widen it from 12' to 18' and maintain the gravel base. It will include a one-way in and out gravel parking area to serve 26 parking spaces for those that want to utilize the dog park. The only grading for the site will be for the improvement of Nichols Road. They plan to follow the existing grade to the greatest extent possible, centering it between the existing stonewalls in order to maintain as many of the historic walls as possible. The remainder of the area, though fenced in, will remain natural. If significant underbrush or invasive species are discovered, removal may be necessary. They are proposing to bring in a water lateral so visitors can fill up dog bowls. There will be a small dog area and large dog area. The regulated activity, approximately 0.50 acres, is happening due to the fact that Nichols Road is in close proximity to a wetland finger and the fencing that enters the regulated area from the wetland on the other side. She added that they have yet to submit an application to the Planning & Zoning Commission, as there is a question on the ownership of Nichols Road and how it needs to be handled.

Curtis Bosco stated that the applicant asked for a waiver of the fee as part of the application. He then questioned how much of the land is within Middlebury.

Deborah Seavey, W.E.O. questioned if it was 163 acres.

Emily Jones, P.E. stated that 135 acres, which is owned by the Middlebury Land Trust, was purchased from the Town of Middlebury. She went on to add that she did submit a letter, dated November 22, 2023, on behalf of the Land Trust requesting a waiver of the Conservation Commission fees.

Chairman Bowler stated that the fees total approximately \$3,460.00.

Curtis Bosco questioned if the commission has the authority to waive the fees.

Deborah Seavey, W.E.O. replied that they can.

George Tzezos added that they have in the past.

Curtis Bosco questioned what the cost is per acre.

Deborah Seavey, W.E.O. replied \$20/acre. She then pointed out that the November 22, 2023 letter from Emily Jones, P.E referenced 163 acres.

Emily Jones, P.E. confirmed that was incorrect and that the total property is 136 acres. She added that there are 4 acres in the project area, 3 of which are fenced in but nothing will happen, and 1 acre involves the graded area.

Deborah Seavey, W.E.O. indicated that the commission can waive everything or nothing and confirmed that it is \$20/acre for the entire site.

George Tzezos questioned if they pay real estate taxes.

Scott Peterson, President of Middlebury Land Trust, replied that they are tax exempt.

Motion: to waive the entire application fee for application #507 – 69 Nichols Road. Made by George Tzezos, seconded by Joseph Bernardi. Unanimous Approval.

Motion: to accept application #507 – 69 Nichols Road. Made by Joseph Martino, seconded by Curtis Bosco. Unanimous Approval.

V. OTHER BUSINESS

1. Proposed 2024-25

Motion: to adopt the Actual expenditure for the Fiscal Year of 2022-23 of \$19,198.22 for the Proposed 2024-25 Budget. Made by George Tzezos, seconded by Joseph Martino. Unanimous Approval.

2. Election of Officers

Motion: to add Election of Officers to the agenda. Made by George Tzepos, seconded by Joseph Bernardi. Unanimous Approval.

Motion: to nominate Paul Bowler as Chairman. Made by George Tzepos, seconded by Joseph Bernardi. Unanimous Approval.

Motion: to nominate Curtis Bosco as Vice Chairman. Made by Paul Bowler, seconded by Joseph Bernardi. Unanimous Approval.

VI. ADJOURNMENT

Motion: to adjourn the meeting at 8:11 p.m. Made by George Tzepos seconded by Curtis Bosco. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Recording 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 #501 20 Juniper Road

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received an application on October 31, 2023 From Maria Tapia & Eldridge Arcos map dated received September 27, 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 a restoration planting plan within the regulated area should also include a wetland seed mix for stabilization.
 - (2) A cash bond in the amount of \$3000.00 shall be in place for the plantings and should remain in place for two growing seasons.
 - (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.
- November 28, 2023

RESOLUTION/REPORT

Application #502 – 1082 Southford Road

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received an application on October 31, 2023 From Wiggles Pet Resorts, LLC map entitled "1082 Southford Road" dated October 18, 2023;

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 a commercial building, parking and drainage facilities will not have a substantial impact on the regulated area.
- (2) Prior to permit issuance, revised plans shall be submitted to include:
 - Comments from John Calabrese
 - Details of silt sacks
- (3) As-built of stormwater detention basin shall be submitted.
- (4) Compaction and sieve tests shall be submitted.
- (5) Annual drainage maintenance reports shall be submitted.
- (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.

November 28, 2023

RESOLUTION/REPORT

Application #503 305 Burr Hall Road

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received an application on October 31, 2023 from Mary Lawlor & Jon Loeff map entitled "Site Plan Grading Plan Erosion Control Plan" dated October 16, 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 inground pool, walkways and patios within the upland review area will not have a substantial impact on the regulated area.
- (2) The applicant shall notify the enforcement officer forty-eight (48) hours prior to the commencement of work and upon its completion.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) It is the applicant's responsibility to give notification to the Army Corps of Engineers and the Department of Environmental Protection if necessary.

November 28, 2023

RESOLUTION/REPORT

Application #504 Madison Court Lot #3

WHEREAS: The Middlebury Conservation Commission for the Town of Middlebury has received an application on October 31, 2023 from Albana & Luli Lane map entitled "Lot #3 Parkland Estates – Section four Madison Court, Middlebury, Connecticut" dated October 9, 2023 with revision date of October 27, 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 a dwelling, driveway, well and propane tank within the upland review area will not have a substantial impact on the regulated area.
- (2) The property owner shall submit a separate application with all required details for the "future pool" area.
- (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.

November 28, 2023
