



## **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission*

*1212 Whittemore Road*

*Middlebury, Connecticut 06762*

*(203) 577-4162 ph*

*(203) 598-7640 fx*

### **July 1, 2021 REGULAR MEETING MINUTES**

#### **REGULAR MEMBERS PRESENT**

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

#### **REGULAR MEMBERS ABSENT**

#### **ALTERNATE MEMBERS PRESENT**

#### **ALSO PRESENT**

Curtis Bosco, Z.E.O.  
John Calabrese, P.E.

#### **ALTERNATE MEMBERS ABSENT**

Jeffrey Grosberg

#### **CALL TO ORDER**

Chairman Smith called the Regular Meeting to order at 7:00 p.m.

#### **ROLL CALL AND DESIGNATION OF ALTERNATES**

Chairman Smith announced Regular Members Smith, Stowell, Carrington, Robison and Drauss as present. Alternate Member Grosberg was absent.

## **PUBLIC HEARINGS**

### **1. 1365, LLC/1365 West Street-Application to amend Sections 31.4.2, 34.4.3 & 52.10.8 of the Regulations (Application #2021-5-1)(Continued)**

Chairman Smith called the Public Hearing to order at 7:01 P.M.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant and stated that Curtis Bosco, Z.E.O. had just handed him the report from Hiram Peck dated 6-29-2021.

Chairman Smith indicated that he and William Stowell had a conversation and that Mr. Stowell had a suggestion which Chairman Smith agreed with.

William Stowell went on to state that he understands that Dean Yimoyines is concerned about his application being held up. He suggested that the commission act on the roof separately and then everything else can be addressed later by the commission.

Attorney McVerry expressed their approval of the suggestion.

Chairman Smith confirmed that the commission will take up the rest and go through the suggestions in Hiram Peck's report. He also expressed the possibility of having a workshop with all of the restaurant owners in town.

**Motion:** to close the Public Hearing at 7:05 P.M. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

### **2. Ter-Geo, LLC/Russell Antonacci/896 Middlebury Rd.-Application for a Special Exception for Property Management Companies pursuant to Section 35.5.2 of the Regulations (Residential Transition District) (Application #2021-6-1)**

Chairman Smith called the Public Hearing to order at 7:06 P.M. and read the Legal Notice published in Voices 6-16-2021 & 6-23-2021 for the record.

Matthew Robison recused himself.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of his client, Russell Antonacci, who is the contract purchaser of the property currently owned by Ter-Geo. His client intends to move his property management firm, real estate

office and his father's law firm to the building which is currently 3,500 square feet with a loading dock in the rear. He is proposing to remove the loading dock, add a double garage in the rear and a second story to the building. For the record, he submitted copies of the following:

- Report dated 6-30-2021 from the Fire Marshal indicating he has no issue with the application
- Architectural Review dated 6-14-2021 from the EDC indicating their approval
- Email dated 6-23-2021 from Police Chief Fran Dabbo indicating he has no issues
- Email dated 6-21-2021 from Fire Chief Brett Kales indicating has no issues other than a request to possibly have a Knox Box installed in the event of an emergency

Attorney McVerry went on to state that the Conservation Commission did grant approval on Tuesday, June 29, 2021. He requested a waiver of the traffic study, stated that the building is not in a watershed and added that they have not yet had the ability to put together a construction detail, but can do so. With respect to the written analysis of the building to meet the performance standards, he asked that the Public Hearing be continued so that it can be put in place.

Scott Meyers of Meyers Associates, P.C. reviewed the rendering and plans with the Commission. The parking lot in the rear will remain the same and will install a Riprap buffer strip for water quality purposes quality as currently there is no drainage. They will close up the northerly curb cut to provide for parking and restriping is planned to make it more functional. The entrance of the building will change from the front to the side. Older/overgrown shrubs will be removed and new landscaping will be planted including an Arborvitae (6-8 feet in height) buffer for the residential house to the north. He asked to defer 3 parking spots in order to maintain the existing impervious coverage on the site. The building is currently connected to sewer and has a private well.

Attorney McVerry acknowledge that they will need to return for signage approval.

**Motion:** to continue the Public Hearing on August 5, 2021. Made by Joseph Drauss, seconded by William Stowell. Matthew Robison recused himself. Unanimous Approval.

### **MINUTE APPROVAL**

#### **3. Discussion of the Minutes of the Regular Meeting held on June 3, 2021**

**Motion:** to approve the Minutes as submitted. Made by William Stowell, seconded by Erika Carrington. Unanimous Approval.

### **OLD BUSINESS**

**4. 1365, LLC/1365 West Street-Application to amend Sections 31.4.2, 34.4.3 & 52.10.8 of the Regulations (Application #2021-5-1)**

**Motion:** to approve Section 31.1.7 (A.) and to delete current Sections 34.4.3, 52.10.8 as Special Exceptions and 31.4.2. Made by William Stowell, seconded by Erika Carrington. Unanimous Approval.

**5. Ter-Geo, LLC/Russell Antonacci/896 Middlebury Rd.-Application for a Special Exception for Property Management Companies pursuant to Section 35.5.2 of the Regulations (Residential Transition District) (Application #2021-6-1)**

Discussion was initially tabled.

**Later in the meeting:**

Attorney McVerry addressed the commission and requested that they act on their request for a waiver of the traffic study.

**Motion:** to approve the requested waiver for a traffic study. Made by Joseph Drauss, seconded by Erika Carrington. Matthew Robison recused himself. Unanimous Approval.

### **NEW BUSINESS**

**6. Middlebury Land Development/North Benson Rd. – Discussion and possible action regarding Benson Woods Subdivision (Application #2021-6-2)**

Curtis Bosco, Z.E.O. stated that Attorney Jennifer Yoxall requested that the application be tabled until next month.

Discussion was tabled.

**7. 1365, LLC/1395, 1405 Middlebury Rd.-Application for Site Plan (Application #2021-6-3)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant who is seeking approval for an additional 42 parking spaces. They also applied with the Conservation Commission and the application was accepted at their

Tuesday, June 29, 2021 meeting.

Chairman Smith said that there is an elevation difference which will require modifications that must be detailed on the plans including bollards on the greenway and stop signs, all for the safety of the pedestrians. The swale next to the greenway by the substation also needs to be shown. Once the plans are updated, they should be reviewed by Hiram Peck and John Calabrese, P.E.

**Motion:** to accept the application. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

### **OTHER BUSINESS**

#### **8. Any other business added to the agenda by a 2/3 vote of the Commission**

None

#### **9. 8-24 referral from BOS for the sale of T-Lots #1311-1320 Narcissus Road to James Harlamon**

Attorney Dana D'Angelo stated that the town was approached by James Harlamon and requested to purchase 10 (ten) T-Lots on Narcissus Road from the town in order to attach them to some property he owns. The town had as appraisal done by Walter Kloss and it was determined that they total 4.6 acres valued at \$1,380.00. She also believes that he intends to subdivide and is looking to acquire another parcel that is not owned by the town.

Erika Carrington expressed her opinion that the lots combined would have greater value and requested another appraisal to which the other members agreed with.

Attorney Dana D'Angelo agreed to obtain another appraisal.

#### **10. Discussion regarding possible 8-24 referral from Matasavage family**

Attorney Dana D'Angelo stated that the town was approached by the Matasavage family, pre-Covid, and offered some land along Reagan Road and wanted to know if there was any interest on the part of the commission. She reviewed the analysis she did referencing the town's value, the Matasavage's appraiser's value and the town's appraiser's value of the 4 (four) different parcels.

Chairman Smith questioned if the appraisals could be updated.

Attorney D'Angelo confirmed that they could be.

Chairman Smith suggested that new appraisals be performed by both appraisers

**11. Jim Coffey & Ann Nardozzo/1486 Straits Turnpike-Informal discussion regarding zone change**

Ann Nardozzo stated that the purpose of their informal discussion was to determine if the town has any interest or plans to rezone from residential to commercial in their immediate area and to also express their interest in pursuing this effort. They understand that they would need to reach out to the property owners surrounding their area and would obtain legal counsel for their effort. Since she owned the property in 1983, over the years they have seen significant changes resulting in quality of life and financial concerns. They have experienced a tremendous increase in traffic on Straits Turnpike, traffic accidents, a rise in noise level and congestion issues. Simple tasks such as retrieving their mail and taking a left out of or shoveling their driveway have become major safety issues. They feel these issues are going to continue to increase as the commercial properties become operational. They also have concerns with respect to the resale value of their property as time continues.

Chairman Smith confirmed that currently there are no plans to rezone the area. However, if they were to consider it, all property owners from JoAnne Drive to Anawan Avenue would need to be in agreement and a public hearing would need to be scheduled.

Ann Nardozzo and Jim Coffey thanked the commission for their time and input.

**12. Enforcement Report**

Curtis Bosco, Z.E.O. briefly reviewed his report which included 7 Certificates of Occupancy, 4 building permits, 1 landscape bond was returned, payment to Voices, 1 commercial application was signed off on and 1 blight complaint (Lake Shore Drive) was received. The owner of 48 Clearview Knoll is expected to come before the commission next month.

Eric Anderson of Lake Quassapaug stated that the park has added tents or taken them down over the year and since they are removing the pavilion near the MRA, they may want to put more tents in Pavilion #1 for additional seating. He questioned how the

commission would like them to handle that and if they need to do an updated site plan to reflect tents.

Chairman Smith confirmed that the commission did not require Middlebury Consignment to redo their site plan when they had the overstock sale.

Eric Anderson questioned if a tent could be placed within the 60 foot setback to the MRA property.

Attorney McVerry added that they are not permanent structures.

Chairman Smith stated that he did not see a problem with it. He then opened a discussion with the members with respect to the recently approved legislation regarding marijuana. Prospect Planning & Zoning approved the ban on recreational and medical marijuana sales in their town. The legislation allows towns to opt out of sales and he questioned the members as to whether or not they believe that Middlebury should opt out as well. If in agreement, he will have Hiram Peck draft something up for consideration.

Matthew Robison voiced his agreement with what Prospect did and believes that if a town opts out, they can always go back.

Chairman Smith declared that Waterbury is doing the same thing. All that would be required is a petition for a referendum. He recommended to approve the ban and see how it plays out. He also questioned if they could include stores that primarily sell vaping products. He concluded by saying a Public Hearing would be scheduled for August 5, 2021.

### **13. Adjournment**

**Motion:** to adjourn the meeting at 8:08 p.m. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Middlebury Planning & Zoning  
Regular Meeting Minutes  
7-1-2021

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Original to Brigitte Bessette, Town Clerk

cc: P&Z Commission Members  
Paul Bowler, Chairman, Conservation Commission  
Ollie LeDuc, Building Official  
Curtis Bosco, Z.E.O.  
Ken Long, Chairman, Z.B.A.  
Attorney Dana D'Angelo  
Rob Rubbo, Director of Health