



# **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission*

*1212 Whittemore Road*

*Middlebury, Connecticut 06762*

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**July 7, 2022**

## **REGULAR MEETING MINUTES**

### **REGULAR MEMBERS PRESENT**

Terry Smith, Chairman

William Stowell (not seated)

Joseph Drauss

Matthew Robison

Erika Carrington (not seated)

### **REGULAR MEMBERS ABSENT**

### **ALTERNATE MEMBERS PRESENT**

Paul Anderson (arrived @ 7:03 p.m.)

Gerald Lukowski

### **ALTERNATE MEMBERS ABSENT**

Kevin Zupkus

### **ALSO PRESENT**

Curtis Bosco, Z.E.O.

### **CALL TO ORDER**

Chairman Smith called the Regular Meeting to order at 6:58 p.m.

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

Chairman Smith announced Regular Members Smith, Stowell, Robison, Carrington and Drauss as present. New Alternate Member Lukowski was introduced at 7:01 p.m.

Alternate Member Anderson arrived at 7:03 p.m. Alternate Member Zupkus was absent.

William Stowell stated for the record that Chairman Smith informed William Stowell that his term expired in May of 2022. As a result, William Stowell contacted the Town Clerk who provided him with a listing of the Committee Members which indicated that his term did in fact expire on May 5, 2022. He also learned that Erika Carrington's term expired on May 19, 2022. The list was sent to the Selectmen's Office so that it could be added to their agenda. According to the agenda for Tuesday's meeting, there were no reappointments. Therefore, at this point he asked to not be seated for this meeting until clarification is received as to what is happening. He went on to state that he has been on the Planning & Zoning Commission since December of 1993 and expressed his wish to remain on the Commission.

Erika Carrington questioned the possibility of it being added to their agenda during their meeting.

Marj Needham replied that she was present for the Board of Selectmen's meeting and that they said there were no reappointments.

Erika Carrington concurred with William Stowell and too asked not to be seated for this meeting until the matter is rectified.

Chairman Smith went on to state that the Regular Members seated for this meeting are Smith, Robison and Drauss.

Curtis Bosco, Z.E.O. introduced new Alternate Member, Gerald Lukowski, from the Democratic Town Committee, who was appointed on Tuesday, July 5, 2022. He also stated that Mr. Lukowski resigned his position as a member of the Zoning Board of Appeals.

Chairman Smith welcomed Gerald Lukowski to the Commission.

## **PUBLIC HEARINGS**

### **1. Middlebury Edge, LLC/1625 Straits Turnpike - Site Plan Application & for a Special Exception for a commercial building in excess of 14,000 square ft. pursuant to Sections 31, 51 & 52 of the Regulations (Application #2022-4-1) (Continued)**

Chairman Smith called the Public Hearing to order at 7:02 p.m.

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant, Robert LaFlamme of Middlebury Edge, LLC. Approval from the Conservation

Commission was granted on June 28, 2022. Since then, there has been one minor change to the plans. Per the request of Brian Proulx, Acting Fire Marshall, the water service lines were brought out to the east and a hydrant was put in. As a result, she submitted a copy of his email, dated July 7, 2022, indicating his approval per conditions as well of a few sets of revised plans, dated July 1, 2022, depicting the hydrant.

Paul Anderson entered the meeting at 7:03 p.m.

Emily Jones went on to add that a positive referral from the Economic Development Commission and approval letters from the Police and Fire Chiefs were also obtained by the applicant.

Chairman Smith questioned if the specifications for the retaining wall were submitted.

Emily Jones, P.E. acknowledge that she inadvertently forgot to submit them as requested.

Chairman Smith stated that the Commission would make the town engineer's approval one of the conditions of approval. He then appointed Alternate Member Paul Anderson to act in place of William Stowell for the duration of the meeting.

**Motion:** to close the Public Hearing at 7:05 p.m. Made by Joseph Drauss, seconded by Matthew Robison. Unanimous Approval.

## **MINUTE APPROVAL**

### **2. Discussion of the Minutes of the Regular Meeting held on June 2, 2022**

**Motion:** to approve the Minutes as submitted. Made by Matthew Robison, seconded by Joseph Drauss. Unanimous Approval.

## **OLD BUSINESS**

### **3. Middlebury Edge, LLC/1625 Straits Turnpike - Site Plan Application & for a Special Exception for a commercial building in excess of 14,000 square ft. pursuant to Sections 31, 51 & 52 of the Regulations (Application #2022-4-1)**

**Motion:** to approve the application per the attached Resolution. Made by Matthew Robison, seconded by Paul Anderson. Unanimous Approval.

**4. James Mele, Tom Mele & John Frink/39 Sandy Beach Rd.-Application for Site Plan Approval (Application #2022-5-1)**

Scott Meyers, P.E. & L.S. with Meyers Associates P.C. spoke on behalf of the applicant and reviewed the plans with the Commission. The only changes since last month are they no longer will have a well or a holding tank. Therefore, water or sewer will not be in the building, making it a storage building/structure for purposes of utilizing the lake, as it is uninhabitable. The footprint or location have not changed. Conservation Commission approval was granted on June 28, 2022. The building plan was modified somewhat but the look remains the same.

Chairman Smith stated that he wants to hold off on voting on this application as he wants to discuss it with experts, including town counsel. He is unsure if this commission can approve an uninhabitable building structure on a building lot.

Scott Meyers, P.E. & L.S. replied that it can be because it is a common interest community.

Chairman Smith explained that he did not feel comfortable voting at this point but that they would be on the agenda next month.

Mr. Mele stated that they are trying to stay within the timeline of next door because they have no other access other than that property.

Matthew Robison agreed with Chairman Smith in needing to consult with experts.

Scott Meyers, P.E. & L.S. submitted the April 18, 2022 approval from Tyler's Cove Condominium Association for the record.

**5. JSD Partners Southford, LLC/1067 Southford Road aka 1101 Southford Road-Discussion to modify sign previously approved by Special Exception**

The applicant was not present at this time.

Curtis Bosco, Z.E.O. indicated that he informed the applicant to arrive at approximately 7:20 p.m.

Dean Yimoyines did arrive later in the meeting. (See page 8)

## **NEW BUSINESS**

- 6. Solli Engineering-Application for a Text Amendment to Section 67.1 of the Regulations (Application #2022-5-2)**
- 7. Solli Engineering-Application for a Text Amendment to Sections 9.1, 34.1.7 & 34.4.4 of the Regulations (Application #2022-5-3)**

Chairman Smith stated that the above referenced agenda items would be addressed simultaneously.

Matt Baldino, Senior Project Engineer with Solli Engineering, 501 Main Street, Suite 2A, Monroe, CT 06468 spoke on behalf of the applicant. They are seeking approval to amend the Zoning Regulations and asked to set a Public Hearing for the next meeting. As required, abutting towns have all been notified as well as the regional councils in advance of that meeting.

Chairman Smith confirmed that hearings would be set. He went on to inform Mr. Baldino that “N/A” is not an appropriate response for “Property Owner” and “Property Address” on the Zoning Application.

Matt Baldino replied that this is an amendment to the Zoning Regulations.

Chairman Smith stated that someone must own the property.

Matt Baldino added that it does not apply to a specific property.

Chairman Smith stated that they are the applicant and that he wants the property listed on the application that they are considering. If the applicant is not the owner, then a letter is required from the owner stating that the applicant is allowed to speak on their behalf.

Matt Baldino agreed to do so.

Matthew Robison requested a brief overview.

Chairman Smith responded that they are looking to put in a gas station and a section of the Regulations state that it has to be so far away from a school. As a result, the applicant is looking to reduce the required buffer. Additionally, they are seeking approval to put in a drive thru for a restaurant.

Matt Baldino confirmed that they are two (2) separate applications.

**Motion:** to set a Public Hearing for Solli Engineering-Application for a Text Amendment to Section 67.1 of the Regulations for August 4, 2022. Made by Joseph Drauss, seconded by Matthew Robison. Unanimous Approval.

**Motion:** to set a Public Hearing for Solli Engineering-Application for a Text Amendment to Sections 9.1, 34.1.7 & 34.4.4 of the Regulations for August 4, 2022. Made by Joseph Drauss, seconded by Matthew Robison. Unanimous Approval.

**8. Peter Vileisis/288 Watertown Rd.-Application for a 5-Lot Subdivision (Application #2022-7-1)**

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant. She acknowledge that they were recently before this Commission for several months but ultimately withdrew the application. They are not resubmitting the application to be reconsidered for approval and understand that a Public Hearing is required.

**Motion:** to set a Public Hearing for August 4, 2022. Made by Matthew Robison, seconded by Paul Anderson. Unanimous Approval.

**9. 891 Straits, LLC/891 Straits Turnpike-Application for a Site Plan Modification for additional parking (Application #2022-7-2)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant who is seeking approval to put in the additional nine (9) deferred parking that was part of the original approval in November of 2018.

Chairman Smith stated that although the request wasn't necessary as it was part of the original approval, the Commission would certainly make a formal motion to approve.

**Motion:** to approve the application to add the additional deferred parking. Made by Matthew Robison, seconded by Joseph Drauss. Unanimous Approval.

**10. Region 15/65 North Benson Rd.-Application for Site Plan approval (Application #2022-7-3)**

Joe Martino, Director of Finance for Region 15 Schools, specified that they submitted plans for four (4) portable classrooms and two (2) bathrooms at the Long Meadow Elementary School. They will be placed to the left of the current gym, on a connector and on the current blacktop/basketball court. There will be no loss in parking spaces. An additional basketball court will be added at the lower level.

Chairman Smith requested that they plant and water the remainder of the trees around the solar farm, which were included on previously approved plans.

Joe Martino agreed to do so.

Matthew Robison questioned if the portable classrooms would be there for an indefinite period.

Joe Martino confirmed they would be. He added that the Region has many portable classrooms, however, they are embarking on an additional capital plan.

**Motion:** to approve the application per the condition that the rest of the landscaping around the solar farm be installed. Made by Joseph Drauss, seconded by Mathew Robison. Unanimous Approval.

**11. Paul & Carol Taylor/91 Sandy Beach Road-Application for a modification/addition of existing structure (Application #2022-7-4)**

Carol Taylor stated that they received permission from Tyler's Cove Association as well as the Conservation Commission to build an addition off of the rear of their house.

Phil Tiso, L.S. of Rose - Tiso & Co., LLC of 35 Brentwood Avenue, #3, Fairfield, CT 06825 and brother of Carol, reviewed the plans with the Commission. He confirmed that there is a building envelope rectangle on each unit site. He sister and Paul are attempting to expand their house which is one of the original houses out to just before the edge of the envelope. There is a 3 inch gap between what is proposed and where the envelope is on the side of Lake Quassapaug. They plan to bump up 2 stories over a portion of it and there is a deck. Currently it's considered a 2-bedroom, but it is actually a 1-bedroom house as the other bedroom is so small with a closet that is a utility closet. As far as zoning is concerned, it's basically restricted to the condominium's declaration.

Chairman Smith stated that approval from the Condominium Association is required for the file.

Carol Taylor confirmed she would supply it.

Chairman Smith questioned if being inside the FEMA flood line would create issues.

Phil Tiso stated that the FEMA flood mapping for Lake Quassapaug was defined by FEMA as a Zone A, which has no base flood elevation. He performed a topographic survey so he knows the elevations of the property and the first floor elevation. If he took the highest elevation of where the FEAM line intersects the property's surface, the water

would only rise up approximately 6 inches on the foundation of the building. According to his assumption of the worst case scenario, this foundation would displace 39 cubic feet and if you spread it out over the lake, it's not even measurable.

Chairman Smith explained that he was concerned about flooding in the house.

Phil Tiso clarified that the existing house has columns underneath but does not have a foundation. The proposed addition will have a standard frost footing in the ground and a wall around it. He also declared that while it is in the floodplain, he does not believe it will be an issue.

**Motion:** to approve the Site Plan for 91 Sandy Beach Road with the condition that no building permit be issued until the condominium association approval has been submitted. Made by Mathew Robison, seconded by Paul Anderson. Unanimous Approval.

#### **OLD BUSINESS (continued)**

##### **5. JSD Partners Southford, LLC/1067 Southford Road aka 1101 Southford Road- Discussion to modify sign previously approved by Special Exception**

Dean Yimoyines discussed the possibility to modify the approved sign that he has yet to erect. As a small business person it is getting increasingly difficult to compete with big chain stores in terms of advertising. He's looking to draw more people to their Middlebury businesses. They started a campaign with Connoisseur Media on 99.1 & 99.9 stations and feels it is having a positive impact. He's looking to make the sign bigger so that the large number of people driving on Rt. 188 know what is there. He would also like to put a digital screen on the sign in order to let people know if something special is happening. He reviewed the proposed sign renderings with the Commission, which would be taller than what was approved.

Chairman Smith indicated that a new application would be required as the old one could not be modified. An additional application would be necessary to modify the Regulations, which currently do not allow moving signs.

Dean Yimoyines agreed to do so.

Gerald Lukowski questioned if there were sightline distances were on the site plan and if the sign would dim down in the evening.

Dean Yimoyines confirmed that it can.

## **OTHER BUSINESS**

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

None

### **13. Enforcement Report**

Curtis Bosco, Z.E.O. stated that he had nothing to report.

Chairman Smith announced that the Hunting Ridge withdrawal was received. He then questioned if the fence that is in violation was moved yet.

Curtis Bosco, Z.E.O. stated that it has not, although he was told that a representative from the fencing company is supposed to contact him.

Chairman Smith shared that Hiram Peck is still working on the Affordable Housing Report. The deadline was not met and all has been stalled due to the fact that Hiram has not been able to get it on the website as planned. Hiram sent an email to Chairman Smith on July 6, 2022 indicating that the Selectmen's office is not returning calls.

Curtis Bosco, Z.E.O. stated that the new administrative assistant started this week.

### **14. Adjournment**

**Motion:** to adjourn the meeting at 7:44 p.m. Made by Matthew Robison, seconded by Joseph Drauss. Unanimous Approval.

\*The next Regular Meeting of the Planning & Zoning Commission is scheduled for August 4, 2022.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Brigitte Bessette, Town Clerk

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

## SITE PLAN RESOLUTION

Upon motion by Commissioner **Robison**, seconded by Commissioner **Anderson**, it was voted **unanimously** to approve the application of **Robert LaFlamme** for a SITE PLAN located on **1625 Straits Turnpike**, and as shown on Record Subdivision Map entitled **Middlebury Edge Building 2** and prepared by **Civil 1 Engineering** and dated **March 25, 2022, Revised to July 1, 2022.**

The Commission specifically finds The Application:

1. is in compliance with the requirements of the Planning & Zoning Regulations Sections 51.3.1;

The Application is subject to the following conditions/modifications:

- a) Providing bond satisfactory to the Commission and the Board of Selectmen;
- b) Posting of a landscape bond as determined by the Board of Selectmen;
- c) Signing of the Map by the First Selectman;
- d) Signing of the Map by the Conservation Officer;
- e) Compliance with letter from the Fire Marshall;
- f) Compliance with letter from the Town Engineer;
- g) Compliance with letter from the Town Consultant;
- h) Approval of retaining wall by Town Engineer.

If the above conditions and or modifications are complied with within 90 days of this decision, the Chairman is authorized to sign the Map. Otherwise, the application is to be considered disapproved and denied.

July 7, 2022