



TOWN OF MIDDLEBURY

Planning & Zoning Commission

1212 Whittemore Road

Middlebury, Connecticut 06762

(203) 577-4162 ph

JANUARY 4, 2024

REGULAR MEETING MOTIONS

Regular Members

Terry Smith, Chairman
William Stowell
Erika Carrington
Matthew Robison

Regular Members Absent

Alternate Members

Paul Anderson
Frank Mirovsky
Gerald Lukowski

Alternate Members Absent

Also Present

John Calabrese, P.E.
Curtis Bosco, Zoning Enforcement Officer
Attorney James Strub

CALL TO ORDER

The Chairman called the Regular Meeting to order at 7:01 p.m. And asked for a moment of silence for Joeseph Drauss who passed away.

Chairman Smith stated he did watch the video and minutes and is up to date. All the commissioners have received the required certifications, and they are available in the land use office for inspection. Chairman Smith stated that if it was ok with the rest of the commissioners he would jump around the agenda, all agreed.

ROLL CALL AND DESIGNATION OF ALTERNATES

Chairman Smith named regular members Stowell, Carrington and Robison and alternate members Anderson, Mirovsky, and Lukowski were present. The Chairman appointed Paul Anderson to sit in place of the seat vacated by the late Joseph Drauss for this meeting.

Old Business

Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for a Text Change regarding Height in LI-200 Zone pursuant to Sec. 42.2 of the Regulations (Application #23-58Z)

Regular members Smith Stowell Carrington and Robison were named as well as alternate members Anderson, Mirovsky, and Lukowski as present. The Chairman appointed alternate member Paul Anderson to sit in the vacant position for this meeting.

Chairman Smith stated it was his opinion that the text change was in compliance with the plan of conservation and development. Commissioner Erika Carrington stated for the record that she viewed the video of the October 2023 meeting and is up to date. A MOTION was made by William Stowell; SECONDED by Erika Carrington to approve the application. Chairman Smith read the resolution. The MOTION was approved by RESOLUTION. Smith, Stowell, Anderson voted AYE; Robison and Carrington voted NAY.

Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for Site Plan Approval (Application #23-59Z)

Chairman Smith states he has to look at how it has been interpreted by past commissions and found in 2004 Glasses Galore a building zoned LI was approved as a distribution facility with no manufacturing components. He also found in the GIDD district at 99 Benson Road there was a concierge warehouse for high end value storage with no manufacturing component. And in the LI-80 at 80 Turnpike Drive there was a warehouse approved with no manufacturer and it was a distribution facility. It is his opinion that that warehousing is an allowable use in the LI-200 district. He asked if any others had a different opinion and they said no. Chairman Smith states he is in favor of the application and all regulations are met. Matthew Robison spoke and said that he agrees with the chairman that they have met the conditions requirements, but he is not in favor of changing the height. The other is a matter of the discretion of height charts and is concerned of the precedent of that. Otherwise, they cannot find a reason to not approve. A MOTION was made by Matthew Robison; SECONDED by Paul Anderson to approve the application. Chairman Smith read the resolution. The MOTION was approved by RESOLUTION. Bill Stowell stated for that record that he felt that traffic is still an issue and with the schools involved and the truck traffic and without knowing what is going in the facility it is going to change the neighborhood. Erika Carrington States that Section 51.1.3.4 there is room for judgement and not necessarily black and white and that she is not convinced with the traffic study. Chairman Smith responded that he will refer to the memo dated December 7, 2023 from Attorney McTaggart regarding traffic. Carrington then stated in the resolution also the use in F on page 10 the ITE, LUC High 54 Q that the intention now, although they do not know who is coming in is that it is not going to be the high Q parcel hub. The concern is about the next use or if the use changes. Chairman Smith responded that they would need to come back to the commission. Smith, Robison, and Anderson voted AYE; Stowell and Carrington voted NAY.

Attorney Edward G. Fitzpatrick for Southford Park, LLC/764 Southford Road, Middlebury, CT 06762 – Application for a Special Exception for an Excavation and Grading Permit pursuant to Sec. 64 of the Regulations (Application #23-60Z).

Chairman Smith stated that it was his understanding that the excavation and grading was staying on site and there will not be any soil trucks carrying in or out of the site. A MOTION was made by Matthew Robison; SECONDED by Paul Anderson to approve the application. Attorney James Strub read the resolution. Bill Stowell questioned the hours of construction if it will include the starting of apparatus and that there should be a limit. John Calabrese P.E. stated that you can add in the language to state that no equipment can be started, fueling, or maintenance done before the hours of 7:30am. The MOTION was approved by RESOLUTION. Smith, Robison, and Anderson voted AYE; Stowell and Carrington voted NAY.

Public Hearings

Lawrence Janesky/Artillery Road – Application for a subdivision modification (Application #23-65Z)

Regular members Smith Stowell Carrington and Robison were named as well as alternate members Anderson, Mirovsky, and Lukowski as present. The Chairman appointed alternate member Paul Anderson to sit in the vacant position for this meeting.

The chairman allowed the applicant to speak:

Attorney Dana D'Angelo for the Town of Middlebury spoke that the Historical Society would like a monument to Rochambeau but not on current site, and that it would be on Breakneck Hill Road. The was hope for Mr. Janesky to purchase some land owned by the town and the money would be used to fund the new monument. Once it reached Attorney D'Angelo it was found that it was open space part of a subdivision. The idea then came up of opening of the subdivision and Mr. Janeski would pay the fee in lieu of open space and it would be figured out how to get the funds to the historical society. Erika Carrington asked if the town were to acquire the open space from a subdivision is it allowed to sell it. Attorney D'Angelo responded no it is not and that this is a multi-step process. The money would have to go in the open space fund, then go through the 8-24 process, and it would be subject to a town meeting. Lawrence Janesky spoke and said he lives on 38-acre parcel of the subdivision, currently the monument is located on Artillery Road and is hard to access. His proposal is that he buys the property from the town with the agreement that he can never build on the property. An appraisal has already been done at \$165,000. The town would use the money to buy other acres of open space elsewhere to satisfy the requirement from the original subdivision. Mr. Janesky would then donate another \$100,000 toward the construction of the monument in Meadowview Park. He will move the existing monument near Artillery Road at his expense or leave it where it is depending on what the Historical Society thought was best. Mr. Janesky showed other projects he has done in Bridgeport, Ansonia, and Seymour at his expense and with volunteers.

The chairman allowed members of the public to speak:

Jean Peterson - 317 Tranquility Road expressed her thanks for Mr. Janesky's offer and that she hopes the town can be in the Rochambeau march.

Alice DeMartino – 60 Ridgewood Drive – spoke and submitted a letter in support of Mr. Janesky's application.

Bob Radford – President of Middlebury Historical Society spoke in favor of the sale of the land to Mr. Janesky

Scott Peterson – President of the Middlebury Land Trust. They have not discussed or voted on the issue but own the property adjacent to the area of Breakneck Hill Road. He spoke personally in favor of the project but asked the commission to recognize the land trust mission for preserving the open space in perpetuity. He asked the commission that documents be executed at the time of sale to make all things Mr. Janesky has promised applicable to future owners.

Frank Perrella – 25 Edgar Road – spoke in favor of Mr. Janesky and thanked him for what he was doing.

Chairman Smith stated it was his understanding that Commissioner Stole asked for a report from the open space land preservation commission and the report has not been received. Chairman Smith asked Mr. Janesky for permission to extend the public hearing by one month to February 2024. Chairman Smith stated he did receive one letter from Ted Mannello in opposition to the sale. A MOTION was made by Erika Carrington for the discussion of the Application made by Lawrence Janesky/Artillery Road – Application for a subdivision modification (Application #23-65Z) is CONTINUED to February 1, 2024, at 7:00 p.m. The MOTION passed unanimously.

Parkland Estates Homeowners Association, Inc./Park Road - Application for a subdivision modification (Application #23-66Z)

Regular members Smith Stowell Carrington and Robison were named as well as alternate members Anderson, Mirovsky, and Lukowski as present. The Chairman appointed alternate member Paul Anderson to sit in the vacant position for this meeting.

Attorney Franklin Pilicy spoke on behalf of the applicant. He provided the original subdivision approval from 2008 and a map that locates the two open space parcels that were dedicated as open space at the time of approval. The owner has not sold any lots since 2008 but has established a homeowners association. Mr. Pilicy is approaching the commission and requesting the subdivision approval be modified to accept the open space to be conveyed to the town of Middlebury.

The chairman allowed members of the public to speak: there were none.

Commissioner Carrington as asked if this was the one with the pond and Mr. Pilicy responded no this was off of Park Road. Chairman Smith stated that they are waiting for the open space and they would like to continue this until next month to February 2024. A MOTION was made by Mathew Robison and SECONDED by William Stowell regarding the Parkland Estates Homeowners Association, Inc./Park Road - Application for a subdivision modification

(Application #23-66Z) is CONTINUED to February 1, 2024 at 7:00 p.m. The MOTION passed unanimously.

Kyle P. Richards for Metro Realty Management Corp./124 Kelly Road – Application for a Zone Text Change to add Section 28 Planned Rental Housing Development Overlay District to the Regulations (Application #23-67Z) & Kyle P. Richards for Metro Realty Management Corp./124 Kelly Road - Zone Map Change Application to change from the current LI-80/R-40/PRD to Section 28 Planned Rental Housing Development Overlay District (Application #23-68Z)

Regular members Smith Stowell Carrington and Robison were named as well as alternate members Anderson, Mirovsky, and Lukowski as present. The Chairman appointed alternate member Paul Anderson to sit in the vacant position for this meeting.

Chairman Smith stated they did receive a petition signed by a multitude of people opposing and that has been entered into the record. He also received letters from John Esposito, Deborah Coretto, Lindsey Nichols, Maria Cantito, Anne Nardoza, Jim Coffey, Gary Beaulieu, Karrie Frasca-Beaulieu, Jared Port, Maryann and Ralph Barra, and Faith Richmond from Colonial Avenue. One was in favor and the rest were opposed. These have been entered into the record and are available in the land use office for inspection.

Applicant Kyle Richards spoke and provided a slide show presentation on The Preserve at Middlebury - a proposed luxury rental community. This presentation included other developed properties done by Metro Realty including residential and medical. He presented parcel location; a site plan for eight residential buildings with 25 apartments in each building; each building has 13 garages for a total of 104 and four detached garages; each having 12 garages totaling 48. There is a 1200 foot entrance. The floor plans for 1-2 bedrooms were shown as well as a clubhouse, pool, lounge area, and full service gym area were shown. 10% of apartments would be handicap accessible. In regard to affordability they will set aside 10% of apartments at 80% of median income. There will be no rent subsidy. Residents will be responsible for their own rent. Mr. Richards stated that there would be significant economic benefit to the town.

Tom Daley Professional Engineer with SLR Consulting continued with the presentation to speak about the zones and wetlands on the 77 acres of the property. He stated the central portion of the site is the most developable and spoke about the traffic access to the site.

Rob Danielson, a licensed developer with Fuss & O'Neill presented his findings from the environmental study. They did a site assessment, reviewed existing environmental documents & files from adjacent sites, met with Timex and their environmental consultant, reviewed installed monitoring wells on site and sampled groundwater and soil and evaluated the results. No waste was on site but there is groundwater plume that continues to be treated. Soil sampling was done and pesticides found are below Connecticut standards.

Mark Vertucci, Professional Senior Traffic Engineer of Fuss & O'Neill, spoke with his report on the traffic impact study. They reviewed the intersection of routes 63 & 64 and the proposed site driveway intersection. They conducted an automatic traffic recorder with two counts across the road done to measure 24 hour volumes and vehicle speeds. On July 12, 2023 the study done found the peak hours are between 8-9AM and 4:45-5:45-PM. They project for this development this will be generating 76 new trips in the morning peak hour and 78 in the afternoon peak hour. The upcoming state intersection project for route 63 & 64 adding lanes is expected to improve traffic flow. From a safety perspective there is a clear line of sight on the south side and looking left after clearing some vegetation there will be adequate sight.

Robert Collins, a professional certified planner with SLR, spoke on his school age children study. The estimated generation range for the Preserve at Middlebury is between 17 to 19 public school aged children based on there being 1-2 bedroom units. The average cost per student is \$20,663.00 for FY 22-23. Kyle Richards entered a report into record regarding school aged children from nine communities similar to Middlebury including Farmington, West Hartford, Newington, Rocky Hill, Glastonbury, Fairfield, and Darien.

The Chairman allowed members of the public to speak:

- Linda VanWagenen of 1516 Straits Turnpike – Came expecting to hear a presentation on the text amendment which she has a lot of questions about. She heard nothing about it. She wants to know what other areas of town will there be eligible? How is the density calculated? She is concerned about traffic.
- Frank Perella of 25 Edgar Road – Read from a newspaper article from the Waterbury Republican American in 2004 titled “State Eyes Clogged Roads” number 5 most clogged road is routes 63 & 64. His concern is that for over 20 years the traffic remains a concern. Also, he said what was not shown in the presentation was a plaza that is very hard to get in and out of because of its location on Straits Turnpike.
- Helen Galvin of 204 Three Mile Hill Road – She asked where are the taxes coming from that was spoken about in the presentation, would it be from renters? Mr. Richards replied that it would be from Metro Reality. Ms. Galvin said that the zoning change would allow more apartments to be built in Middlebury. Also, the emergency access road would then possibly change. The price of paying \$2,000-\$4,000 in rent monthly is the cost of a mortgage and there is nothing keeping the renters there. She does not feel that the population of children would remain as low as the study says. It will also increase the taxes for tax payers for police and firefighters.
- Dave Mascoli of 45 Colonial Avenue – Mentions that they area brought up in the presentation such as Fairfield, Stamford, Darien are all where professionals from New York reside. He also has concerns about the current taxes the residents of Middlebury are paying on their property and how it will increase once there will be more students.
- Janine Sullivan of 106 Joy Rd – Expressed concerns about the presentation and experts who spoke, and had concerns about the traffic for the amount of apartment units. Stated the proposal does not conform with current regulations.

- Elizabeth Swartz of 182 Bayberry Terrace – Concerned about the congestion of the traffic on Three Mile Hill Road and Kelly Road and lack of concern of the speed limit.
- Steve Wuest – spoke about the traffic congestion and also turned in a petition into record with signatures.
- Dr. Elizabeth Hintz of 333 Kelly Road – Urges the commission to consider long term the decision to approve the zoning text change and map change. She also submitted into record 300 signatures from petition.org opposing the apartment rental project.
- Maria Cantito of 356 Kelly Road – Asks the committee to vote no to the text and zone and map change. She has concerns about the traffic and also the traffic study that was done. Also opposes the raising of natural woodland and wetlands. Other concern is the longevity of the luxury part of the apartments in regards to maintenance and upkeep.
- Charles Larkin of 618 South St – presented written commentary from Middlebury resident Caroline wright who was unable to attend. The commentary provided multiple graphs in regards to populations of Middlebury and the surrounding towns have continued to grow.
- Edwin Durgy – His family has lived on Kelly Rd for six decades and he continued the commentary Mr. Larkin had presented. He spoke of area town expenditures. He requested the commission reject the application and ask that Middlebury preserve the character of the community.
- Jared Port of 1498 Straits Turnpike – Spoke in opposition of the project. Stated the increase in population density will put a strain leading to increased traffic congestion, noise and light pollution. Decrease property values, strain public service, and destroy natural habitats. Concerns about the traffic congestion also.
- Faith Richmond – of Colonial Avenue – Traffic study done in July which she feels is a slower month when there are no school busses or parents going to practices and residents going on vacation. A special needs student was not factored into the presentation which could be tens of thousand of doallars more. She spoke with elderly and young professionals who make six figures and told them the rent proposed and none told them they would move in.
- Jeffrey VanWagenen of 1516 Straits Turnpike – Came tonight with the expectation that they would hear about the new zone and did not find anything in regards to it and hopes that this would be extended so that the residents can do some research.
- Christine Masculli of 45 Colonial Avenue – Concerned about traffic with Kelly Rd. and speed on her residential street and feels it will be worse. She is very surprised to hear the school enrollment has been going down but the taxes are going up. She thinks the presentation was good but does not feel it is right for Middlebury.
- Mark Beekey of 112 Bayberry Terrace – opposed to the project and feels they are hanging onto their identity as a small new England town.
- Tom Curry of 1398 Straights Turnpike – Has been a lifelong resident and over the years has seen the change because of the traffic over the year. He is a school bus driver and leaves his home at 5:30am and must wait to be let into traffic every morning. He also heard and has witnessed accidents.

- Scott Peterson – President of the Middlebury Land Trust – They have had a positive relationship with Metro Reality, but he is concerned about the environmental status and feels that there should be a phase two and phase three study done

Commissioner Stowell asked for Mr. Richards to provide a breakdown at the next meeting about the decline of Region 16 school enrollment.

A MOTION was made by William Stowell and SECONDED by Erika Carrington regarding the application made by Kyle P. Richards for Metro Realty Management Corp./124 Kelly Road – Application for a Zone Text Change to add Section 28 Planned Rental Housing Development Overlay District to the Regulations (Application #23-67Z) is CONTINUED to February 1, 2024 at 7:00 p.m. The MOTION passed unanimously.

A MOTION was made by William Stowell and SECONDED by Erika Carrington regarding the application made by Kyle P. Richards for Metro Realty Management Corp./124 Kelly Road - Zone Map Change Application to change from the current LI-80/R-4/PRD to Section 28 Planned Rental Housing Development Overlay District (Application #23-68Z) is CONTINUED to February 1, 2024 at 7:00 p.m. The MOTION passed unanimously.

Craig Laaman/Wiggles Pet Resort/1082 Southford Rd. Application for Site Plan Approval for 13,120 square foot commercial building for canine services (Application #23-89Z)

A MOTION was made by Erika Carrington and SECONDED by Matthew Robison regarding the application made by Craig Laaman/Wiggles Pet Resort/1082 Southford Rd. Application for Site Plan Approval for 13,120 square foot commercial building for canine services (Application #23-89Z) is CONTINUED to February 1, 2024 at 7:00 p.m. The MOTION passed unanimously.

New Business

Ara & Wanda Horenian/35 Porter Hill Road-Special Exception for Accessory Apartment (Application #23-62Z)

A MOTION was made by William Stowell and SECONDED by Paul Anderson to accept the application. Public Hearing was set for March 7, 2024 at 7:00 p.m. The MOTION passed unanimously.

Andrew Robinson/13 West Lake Road #D15 – Demolition and Rebuild. Site Plan Review (Application #23-108Z)

A MOTION was made by William Stowell and SECONDED by Matthew Robison to accept the application was accepted for consideration for the February 1, 2024 meeting. The MOTION passed unanimously.

Gregory Barnes – informal discussion regarding activities in vineyards

Mr. Barnes was not present.

Any other business added to the agenda by a 2/3 vote of the Commission

None

Enforcement Report

Nothing to report.

Discussion of the minutes of the regular meeting held December 7, 2023

Continued until February 1, 2024

Adjournment

A MOTION was made by Erika Carrington and SECONDED by William Stowell to adjourn the meeting at 11:30pm. The MOTION passed unanimously.

These minutes are submitted subject to approval.

Respectfully submitted,

Jennifer Atkinson

Recording Clerk

cc: Brigitte Bessette, Town Clerk
Members of the Planning & Zoning Commission
Paul Bowler, Chairman – Conservation Commission
Mark Lubus, Building Official
Curtis Bosco, Z.E.O.
Linda Herrmann, Chairman, Z.B.A.
Attorney Dana D'Angelo
Rob Rubbo, Director of Health