



TOWN OF MIDDLEBURY

Planning & Zoning Commission

1212 Whittemore Road

Middlebury, Connecticut 06762

(203) 577-4162 ph

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October 7, 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

Kevin Zupkus

ALTERNATE MEMBERS ABSENT

Paul Anderson

ALSO PRESENT

Curtis Bosco, Z.E.O.

John Calabrese, P.E.

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 & Drauss and Alternate Member Zupkus as present. Alternate Member Anderson was absent.

PUBLIC HEARINGS

None

MINUTE APPROVAL

1. Discussion of the Minutes of the Regular Meeting held on September 2, 2021

Motion: to approve the Minutes as submitted. Made by Joseph Drauss, seconded by William Stowell. Unanimous Approval.

OLD BUSINESS

None

NEW BUSINESS

None

OTHER BUSINESS

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

None

3. 8-24 Referral regarding the sale of property known as Lots 1311-1320 Narcissus Road

Attorney Dana D'Angelo reviewed the map with the Commission. She stated that she reviewed the two (2) previous plans of conservation and the one from 2001 explicitly states to try to sell said T-Lots although it was not in the most recent plan. She added that it has been a policy of the town to try to sell them to abutting land owners.

Chairman Smith questioned how the town acquired the lots.

Attorney Dana D'Angelo suggested that it may have been a tax issue.

Chairman Smith read the attached Resolution for consideration.

Motion: to approve the attached Resolution. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

4. 8-24 Referral regarding purchase of 4 parcels of property of 29.54+ acres on Regan, Old Regan and Whittemore Roads

Matthew Robison recused himself from this item.

Chairman Smith appointed Alternate Member Kevin Zupkus to act in his place.

Attorney Dana D'Angelo stated that the Matasavage family approached the town in early 2020 to sell some acreage along Regan Road and Route 188. She reviewed the map with the Commission. The BOS requested that she inquire with this Commission to see if they felt it was within the town's best interest. If so, they would start negotiating over a price. There are 16.91 acres along Regan Road, two (2) small parcels across the street that has little or no value, a 2 acre parcel and 10 acre parcel next to MES.

William Stowell stated that he has no issue with the town making the purchase provided the land be utilized for either open space or Board of Education. He also conveyed the importance of the Open Space Committee be consulted as well.

Motion: to approve per the attached Resolution. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

5. Discussion and possible action on the Temporary Moratorium on Cannabis Establishments

Chairman Smith requested that Attorney Dana D'Angelo put together the attached Proposed Text Amendment until Town Planner Hiram Peck finalizes the Regulations. He stressed the importance of something being

Attorney D'Angelo clarified that this Commission cannot prohibit someone from ordering marijuana and it being delivered to their house. However, this Commission can amend their Regulations to prohibit dispensaries. The public act also allows this Commission to prohibit the use of cannabis on town property, it but must be done by ordinance.

Chairman Smith suggested scheduling a Public Hearing for November 4, 2021 to start process.

Motion: to schedule a Public Hearing for November 4, 2021 (Proposed Text Amendment attached). Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

3. Enforcement Report

Chairman Smith stated that he received a call from an industrial broker questioning why this Commission bans self-storage. He explained his concerns of having no control over what is stored, companies leaving items, hazardous waste, buildings not being in character of the town, etc. He also believes that the town can make better use of properties. The broker expressed interest in the old Timex building, which is zoned Industrial, however. Chairman Smith believes self-storage is a commercial use and in the event they would open it up to the LI District, it would open it up to the Chemtura property.

All members present agreed with the points he raised.

Chairman Smith requested that Attorney Dana D'Angelo and Curtis Bosco, Z.E.O. work together to get the process going on the following continuous zoning violations:

- Subway – bus needs to be removed as it is being utilized as a sign and the license plate on the bus is not registered to the bus
- Uncle Willies – trucks need to be removed, landscape around the sign and blocks need to be removed
- Sunoco – many downlights were replaced with flood lights that need to be removed
- Watertown Road – pizza business is being run out of a residential home. It contains two (2) fire trucks, a flatbed truck with a pizza oven on it, a trailer with a pizza oven on it, a box truck and employee parking
- Rocco Rubbish – parking truck in driveway
- Cavallo's – signage need to be removed
- Solar Farm – landscaping needs to be completed
- Sandy Hill Road – blight issue and illegal sub-division
- Washington Drive – fence creates a hazard

Curtis Bosco, Z.E.O. updated the Commission about his work on the scenic roads in Middlebury. He suggested that they create a scenic route through Middlebury that would encompass said roads and reviewed a map highlighting said route with the Commission. He also shared proposed imagery for signage and welcomed suggestions from the members.

Chairman Smith reminded the Commission members of the importance of reviewing the draft of the Regulations.

Curtis Bosco, Z.E.O. informed the members that the Land Use Office is in the process of selecting a program to allow for online capabilities.

4. Adjournment

Motion: to adjourn the meeting at 7:57 p.m. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

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

RESOLUTION

Regarding the sale of T- Lots 1311-1320 Narcissus Road to James Harlamon

After review of the appraisals, and other supporting documentation, the Planning and Zoning Commission of the Town of Middlebury finds that it would be in the Town of Middlebury's best interest to sell T-Lots 1311-1320 Narcissus Road (.46 acres) to James Harlamon. Therefore,

BE IT RESOLVED:

That in accordance Connecticut General Statute §8-24, the Planning and Zoning Commission of the Town of Middlebury recommends the sale of T-Lots 1311-1320 Narcissus Road to James Harlamon. This recommendation shall be submitted to the Board of Selectman.

October 7, 2021

RESOLUTION

Regarding the purchase of property known as: Map 4 Block 6 Lot 95 Regan Road, Map 4 Block 6 Lot 86, Map 4 Block 6 Lot 111 Regan Road, Map 4 Block 6 Lot 112 Regan Road and Map 4 Block 6 Lot 80 Regan Road.

After review of map(s), and other supporting documentation the Planning and Zoning Commission of the Town of Middlebury moves to recommend the purchase of the above cited property in accordance with Connecticut General Statute §8-24.

Therefore,

BE IT RESOLVED:

The Planning and Zoning Commission of the Town of Middlebury moves to recommend the purchase of property known as Map 4 Block 6 Lot 95 Regan Road, Map 4 Block 6 Lot 86, Map 4 Block 6 Lot 111 Regan Road, Map 4 Block 6 Lot 112 Regan Road and Map 4 Block 6 Lot 80 Regan Road Map 4 Block 6 Lot 95 Regan Road, Map 4 Block 6 Lot 86, Map 4 Block 6 Lot 111 Regan Road, Map 4 Block 6 Lot 112 Regan Road and Map 4 Block 6 Lot 80 Regan Road in accordance with Connecticut General Statute §8-24.

The Planning and Zoning Commission of the Town of Middlebury recommends that the property be retained as open space or used in conjunction with Middlebury Elementary School.

The Planning and Zoning Commission of the Town of Middlebury recommends that Town Counsel present this matter to the Land Preservation and Open Space Acquisition Commission.

October 7, 2021

**PROPOSED ZONING TEXT AMENDMENT
SCHEDULED FOR PUBLIC HEARING ON
THURSDAY, NOVEMBER 4, 2021 AT 7:00PM
Shepardson Community Center, 1172 Whittemore Road, Middlebury, CT**

ADD NEW LANGUAGE:

SECTION 69 - TEMPORARY MORATORIUM ON CANNABIS ESTABLISHMENTS

69.1 Purpose

This Section has been adopted to provide the Commission with the time necessary to consider adoption of regulations in response to Public Act 21-1 "AN ACT CONCERNING RESPONSIBLE AND EQUITABLE REGULATION OF ADULT CANNABIS USE." Said Public Act provides that a municipality, through its zoning regulations, can prohibit or establish reasonable restrictions on cannabis establishments. If the municipality does not amend its regulations to address this use, then Cannabis Establishments will be deemed a permitted use in those zoning districts where retail and commercial establishments are also permitted. Regulations to be promulgated by the Connecticut Department of Consumer Protection may provide guidance on certain aspects of local regulation of Cannabis Establishments. The regulation of recreational cannabis raises novel legal, planning, and public safety issues, and the Commission needs time to study and consider the regulation of Cannabis Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Regulations regarding regulation of Cannabis Establishments. The Commission intends to adopt a temporary moratorium on the use of land and structures in the Town for Cannabis Establishments so as to allow sufficient time to address the effects of such structures and uses in the Town and to enact regulations in a consistent manner.

69.2 Definition

"Cannabis Establishment" means a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager and delivery service but does not include a dispensary facility as provided in 56 section 21a-408-1 of the regulations of Connecticut state agencies.

69.3 Temporary Moratorium

For the reasons set forth above and notwithstanding any other provision of the Zoning Regulations to the contrary, the Commission hereby adopts a temporary moratorium on the acceptance of applications or the use of land or structures for a Cannabis Establishment and other uses related to recreational marijuana. The moratorium shall be in effect through 6 months from date of adoption or until such time as the Commission adopts Zoning Regulation amendments that regulate Cannabis Establishments, whichever occurs earlier. During the moratorium period, the Commission shall undertake a planning process to address the potential impacts of recreational cannabis in the Town, and to consider the Connecticut Department of Consumer Protection's regulation of Cannabis Establishments, and shall consider adopting new Zoning Regulations in response to these new issues.