



TOWN OF MIDDLEBURY

Planning & Zoning Commission

1212 Whittemore Road

Middlebury, Connecticut 06762

(203) 577-4162 ph

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April 7, 2022

REGULAR MEETING

MINUTES

REGULAR MEMBERS PRESENT

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

REGULAR MEMBERS ABSENT

ALTERNATE MEMBERS PRESENT

Paul Anderson

ALTERNATE MEMBERS ABSENT

Kevin Zupkus

ALSO PRESENT

John Calabrese, P.E.
Curtis Bosco, Z.E.O.
Attorney Dana D'Angelo
Hiram Peck, Town Consultant

CALL TO ORDER

Chairman Smith called the Regular Meeting to order at 6:59 p.m.

ROLL CALL AND DESIGNATION OF ALTERNATES

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

PUBLIC HEARINGS

1. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Text Amendment to Section 22.2.1 A of the Regulations (Application #2022-1-1)**
2. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Zone Change from existing R-40 to R-40/PRD (Application #2022-1-2)**

Chairman Smith stated that a request from the applicant was received requesting that both of the above referenced Public Hearings be tabled until the May 5, 2022 Regular Meeting. They also granted a 35-day extension to this Commission in order to keep the Public Hearings open.

Motion: to continue the two (2) Public Hearings on May 5, 2022. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

3. **Evelyn M. Dederick & Dorothy Daniels/625 Straits Turnpike – Site Plan Application & for a Special Exception for a commercial building in excess of 14,000 square ft. pursuant to Sections 31.1.1 & 52.2 of the Regulations (Application #2022-1-4)**

Chairman Smith called the Public Hearing to order at 7:01 p.m.

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicants and stated that they requested to respectfully withdraw their application without prejudice so that they may reassess and possibly reapply in the future. She also requested that Hiram Peck cease his review of the application.

Chairman Smith confirmed that the applicants could return at a later time with a new application without prejudice.

4. **Planning & Zoning Commission - Adoption of Regulations Prohibiting Recreational Cannabis Sales**

5. **Planning & Zoning Commission - Deletion of the Temporary Moratorium**

Chairman Smith called the two (2) Public Hearings to order at 7:02 p.m. and stated that they would run concurrently. He read the Legal Notice published in Voices on 3-23-2022 & 3-30-2022 and the NVCOG Staff Referral Report dated March 21, 2022 for the record.

He then went on to read the following proposal.

ADD: Article 1, Section 12, Specific Town wide Prohibition:

A. Any sale whether retail or wholesale, of any amount of recreational cannabis in any zone, location or district to anyone within the Town of Middlebury is hereby prohibited as is authorized by Public Act 21-1 and in accordance with the Zoning Regulations of the Town of Middlebury.

There were no comments or questions from the public or from the members of the Commission.

Motion: to close the two (2) Public Hearings at 7:06 p.m. Made by William Stowell, seconded by Matthew Robison. Unanimous Approval.

MINUTE APPROVAL

6. Discussion of the Minutes of the Regular Meeting held on March 3, 2022

Motion: to accept the Minutes as submitted. Made by William Stowell, seconded by Joseph Drauss. Matthew Robison abstained from voting as he was not present for said meeting. Chairman Smith appointed Alternate Member Paul Anderson to act in place of Regular Member Matthew Robison. Unanimous Approval.

OLD BUSINESS

7. Peter Vileisis/288 Watertown Rd. – Application for a 5 Lot Subdivision (Application #2021-10-3)

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant and confirmed that nothing has changed since the Public Hearing was closed. She declared that her client did pay all of his outstanding taxes that were due. In speaking with Attorney Dana D'Angelo regarding the additional open space and understand that it would be cumbersome, difficult and potentially impossible to add it at this point in time since the Public Hearing is closed. Therefore, she requested that the Commission consider approving the subdivision as presented.

Chairman Smith confirmed that the donation/easement of the strip of land to Middlebury Land Trust can be addressed separately.

Attorney Dana D'Angelo stated that she did receive and review the land easements prepared by Attorney Franklin Pilicy. She then questioned if a driveway maintenance agreement was requested.

William Stowell confirmed that along with a driveway maintenance agreement, documentation also needs to be submitted regarding who would be responsible for the maintenance of the sight lines and rain garden.

Emily Jones, P.E. stated that the responsibility should be shared among the home owners.

Chairman Smith announced that there was no additional time or extensions available for this Commission to make their decision and suggested that since the remainder of the required documentation was not presented, the applicant withdraw their application without prejudice and resubmit at a later time to start the clock again. He also confirmed that Hiram Peck needs to submit his review.

Emily Jones, P.E. then submitted a handwritten request to respectfully withdraw the application without prejudice

8. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Text Amendment to Section 22.2.1 A of the Regulations (Application #2022-1-1)**

Discussion was tabled.

9. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Zone Change from existing R-40 to R-40/PRD (Application #2022-1-2)**

Discussion was tabled.

10. **Evelyn M. Dederick & Dorothy Daniels/625 Straits Turnpike – Site Plan Application & for a Special Exception for a commercial building in excess of 14,000 square ft. pursuant to Sections 31.1.1 & 52.2 of the Regulations (Application #2022-1-4)**

Application was withdrawn. See item #3 above.

11. Peter Amara/1582 Straits Turnpike – Application for a Site Plan Modification regarding Architectural Plans and stairway relocation (Application #2022-2-1)

Chairman Smith confirmed receipt of documentation from the Architectural Review Board indicating EDC approval on March 28, 2022.

Motion: to approve the Revised Site Plan dated February 25, 2022. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

Chairman Smith requested to address the following two (2) agenda items in the following order:

13. Planning & Zoning Commission - Deletion of the Temporary Moratorium

Motion: to delete the Temporary Moratorium. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

12. Planning & Zoning Commission - Adoption of Regulations Prohibiting Recreational Cannabis Sales

ADD: Article 1, Section 12, Specific Town wide Prohibition:

A. Any sale whether retail or wholesale, of any amount of recreational cannabis in any zone, location or district to anyone within the Town of Middlebury is hereby prohibited as is authorized by Public Act 21-1 and in accordance with the Zoning Regulations of the Town of Middlebury.

Motion: to approve the adoption of the above Regulation Prohibiting Recreational Cannabis Sales. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

14. Planning & Zoning Commission - Discussion with town consultant regarding the Town's Affordable Housing Plan

Hiram Peck of Plan Three LLC provided a PowerPoint presentation with respect to the town's approach for creating an Affordable Housing Plan in accordance with Connecticut General Statute §8-30j. It requires a town to study, develop, create and adopt a plan by June of 2022. A hearing is not required, however, the Commission can hold one.

The plan must go to the Board of Selectmen, who would also need to adopt the plan, and then it gets sent to the Office of Policy and Management which would list it along with the plans that exist in the state. Updates are required every five (5) years. Some towns incorporate the Affordable Housing Plan (AHP) into the Plan of Conservation & Development (POCD). This Commission will serve as the committee on this mission, provide information, gather data, assemble and present a draft to the Board of Selectmen. He stressed the importance of the Commission's admission in this and to study the issue on a local and regional basis. Seniors may want to downsize or young folks might want to live in town that can't afford to do so at the present time. Architecture is important and the development should be compatible within the context of the town's existing development. It does not have to be limited to specific types nor does it all have to be affordable housing. Moderately priced housing is acceptable and include strategies for people of all ages. There should be room in the plan for discussing equity and fairness. This plan in itself is not a regulatory document. The idea is to derive housing that would be able to be rented or purchased which would enable people to live there without be cost burdened. The various number of bedrooms, family size and area median income are all things to consider. The 2018 American Community Survey found that 32% of the town's renters are cost burdened, meaning they are spending more than 30% of their income on housing, as are 27% of home owners with mortgages. Additionally, 127 affordable units out of approximately 3,000 in town and 83% owner occupied. The most recent census data should be coming out in the near future. Applicants need to qualify based on family income as a percentage of the area median income. Residents may currently work in the community and want to reside in the community. Design should be compatible with the community, location should be environmentally acceptable and physical access is important. Transit and access to amenities are things to consider as well as. There is a difference between density and congestion. He would like to post a survey on the town's website within the next week or so with a variety of questions (25-26) about housing in town. He stressed the importance of advertising it as much as possible so residents can respond. He is contemplating utilizing SurveyMonkey or hiring a private consulting firm. Votes on the plan will be made public and the plan will then be sent to the Board of Selectmen for adoption. He would like to give residents 2-3 weeks to respond and the information would be given to this Commission. He also requested that the presentation he provided this evening be put on the town's website as well.

Members of the Commission agreed that The Bee, Voices and the town's Code Red System should be utilized to ensure residents are aware of the survey.

Hiram Peck added that paper surveys prove to be difficult when it comes to analysis, but he offered to provide paper copies for those that do not have access to a computer or who are unable to navigate a computer.

Members of the Commission mentioned the possibility of making them available at the library and/or senior center, but wanted to give it further thought as to the best way to make them available.

NEW BUSINESS

15. 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)

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant. The property is 13 acres in size and currently has 2 buildings on the site. They are seeking approval to construct a 3rd building on the southern portion of the property. They are currently before the Conservation Commission and will be before WPCA on the 19th. Architectural renderings will be made available for the EDC at the end of the month. The proposed building will be 16,000 square foot 2-story medical office building on an 8,000 square foot footprint. Additional parking is also being proposed, as existing spaces are sized for the 2 existing buildings. There will be new storm drainage and all zoning calculations meet the requirements. A Special Exception is needed due to the fact that it is over 14,000 square feet. She does not believe an Excavation & Grading Permit is needed as it is a balanced site.

Motion: to set a Public Hearing for May 5, 2022. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

Chairman Smith requested that the application be signed off by the sewer authority.

16. Matthew Holloway & Garrett Moore/43-45 Sandy Beach Road – Residential Site Plan Review Tyler’s Cove Condominium (Application #2022-4-2)

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 stated that he represents Garrett Moore and Matthew Holloway. Garrett Moore is the contract purchaser of the two (2) units at Tyler’s Cove, currently owned by Matthew Holloway. 43 and 45 Sandy Beach Road are also known by the association as units 17 & 18. The proposal is to demolish the 2 units and build a 2-bedroom –story house, carriage house and construct a pergola in place of the current shed. The septic system will be upgraded and a few dead trees will be removed.

Ron Wolff, P.E. of Woodbury, CT reviewed the plans with the Commission. The 25% grade gravel driveway is shared by unit 16. There is a small septic system by unit 17. The property is 1.03 acres. In order to improve the access and have the driveway better conform to the town standards of 15% grade, they are proposing to separate the 2 driveways and construct a retaining wall between the driveway that will lead down to the house location and the parking area and driveway to unit 16. The driveway will be paved. A code compliance septic system is currently under review by the health district. It will be in a similar location as the existing system which will be abandoned. They are before the Conservation Commission.

Chairman Smith confirmed receipt of the approval granted by Tyler's Cove Association and instructed them to return next month.

OTHER BUSINESS

17. Gondal Corp./1000 Southford Road – Informal discussion regarding a proposed development

Matt Baldino, Senior Project Engineer with Solli Engineering, 501 Main Street, Suite 2A, Monroe, CT 06468. They anticipate having to apply to amend the Regulations in order to allow for development they are seeking. With respect to the location of gas stations in proximity to the schools. Under Section 67, no door of the structure for a gas station can be located within 500 feet of a parcel which houses a school, library, place of worship, public park, charitable institution or a hospital. Due to the neighboring schools, it would prohibit the use of a gas station due to the 500 foot buffer as well as the front yard setbacks. They would like to modify the Regulation as it applies only to buildings located within the town of Middlebury to exclude the Southbury side. Additionally, they would look to reduce the buffer or allow a change so the Commission could waive or reduce said buffer from 500 to 400 feet given a vegetated buffer or other physical barriers that would separate the gas station facility from any of the uses outlined in the Regulation.

Chairman Smith questioned if they are planning a repair facility.

Matt Baldino replied that a fuel facility would be the intended use and there would not be any repair garages. Being the GIDD, they are looking to entice business to come off of the highway and contribute economically to the town. He went on to state that they would be looking include a drive-thru.

Chairman Smith indicated that the Regulations do not allow drive-thrus.

Matt Baldino requested to work with the Commission and welcomes feedback on how to work through possibly restricting that to 2-acre parcels and limiting it to within the GIDD.

Lawrence LePere, P.E., Director of Operations with Solli Engineering, 501 Main Street, Suite 2A, Monroe, CT 06468 added that they have done projects over the past couple of years with drive-thrus. He believes that the increase had much to do with people not being as social as they had been, whether it be for health reasons or convenience for handicap persons who could access the facilities by way of a drive-thru. He

acknowledged that stacking is also a concern and wishes to work with the Commission.

William Stowell requested clarification on the intent of the building.

Matt Baldino clarified that in addition to the fuel station, they would be looking for a convenience portion as well as a drive-thru which may have a cobrand like coffee or some other convenience item through the drive-thru window.

William Stowell questioned if it would be a deli?

Hussnain Gondal, Director of Gondal Corp., stated not entirely and that they are working with different brands at the moment.

William Stowell declared that because of the close proximity to the high school, if a deli or other food sales are proposed, this Commission will be looking for a sidewalk all the way down to the high school. The already existing foot traffic on the road would only increase and he is concerned about safety.

Chairman Smith stated that they will be looking for high end architectural especially since it is in the GIDD and is the entrance to the town.

Matt Baldino assured that it would be in keeping with area.

Hussnain Gondal added that he frequently passes the site and is a resident of Middlebury and plans to make this one of their best facilities and would be willing to install the best in terms of materials.

Chairman Smith added that lighting is also very important.

Lawrence LePere, P.E. shared that they have done a number of gateway projects.

Matthew Robison questioned how many locations Hussnain Gondal owns.

Hussnain Gondal replied that this would be their first ground-up location but in terms of gas stations and convenience stores, a dozen site in CT and RI.

Matthew Robison concluded by saying the gas station would be set back off of the road and include electric vehicle charging stations. The GIDD does allow for gas stations, however, with the 500 foot threshold, many of the parcels within the district are eliminated.

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

Motion: to add the following to the agenda: Michaud Development Group, LLC/Granite Woods/Nutmeg & Stevens Rds.– Request for a sixty (60) day extension to fulfill the conditions of the Planning & Zoning approval granted on January 6, 2022 (Application #2021-10-4). Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

**Michaud Development Group, LLC/Granite Woods/Nutmeg & Stevens Rds.–
Request for a sixty (60) day extension to fulfill the conditions of the Planning &
Zoning approval granted on January 6, 2022 (Application #2021-10-4)**

Chairman Smith expressed his displeasure in having to add this to the agenda.

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant and humbly apologized to the Commission for inadvertently not meeting the 90-day constraint. She added that it was an oversight on her part and expects things to be wrapped up within 30 days but respectfully requested an additional 60 days.

Motion: to grant a sixty (60) day extension. Made by William Stowell, seconded by Joseph Drauss. Matthew Robison was opposed. Vote: 4:1. Motion Passed.

19. Enforcement Report

Curtis Bosco, Z.E.O. reviewed the status of various ongoing noncompliance issues throughout town.

20. Adjournment

Motion: to adjourn the meeting at 8:28 p.m. Made by Matthew Robison, seconded by Erika Carrington. 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