



TOWN OF MIDDLEBURY
Planning & Zoning Commission
1212 Whittemore Road
Middlebury, Connecticut 06762
(203) 577-4162 ph (203) 598-7640 fx

**SPECIAL MEETING
MINUTES**

Saturday, April 2, 2022 at 9:00 A.M.

Town Hall Selectman's Conference Room, 1212 Whittemore Rd, Middlebury, CT

REGULAR MEMBERS PRESENT

William Stowell, Acting Chairman
Matthew Robison
Erika Carrington
Joseph Drauss

REGULAR MEMBERS ABSENT

Terry Smith, Chairman

ALTERNATE MEMBERS PRESENT

ALTERNATE MEMBERS ABSENT

Kevin Zupkus
Paul Anderson

ALSO PRESENT

John Calabrese, P.E.
Curtis Bosco, Z.E.O.
Hiram Peck, Planning Consultant
Terry McAuliffe, Chairman, E.D.C

1. Call to Order

Acting Chairman William Stowell called the Special Meeting to order at 9:00 A.M. and led with the Pledge of Allegiance.

2. Attendance

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

3. Commission to discuss draft revised Zoning Regulations with consultant

Acting Chairman William Stowell went on to state that the purpose of this Special Meeting was to discuss the revised draft of the Planning & Zoning Regulations.

Hiram Peck, Planning Consultant with Plan Three pointed out that due to the fact that the existing Regulations contain conflicting information, his goal was to eliminate those instances and focused on better organization. The discussion proceeded as follows:

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Article 1-Introduction

Hiram Peck

- Straight forward but some parts need additional attention.
- Prohibited Items – 2 options - List them or state “anything that is not listed here is prohibited”. Section 6 is an area where you might find those additional comments.

Matthew Robison questioned the use of “jurisdiction”

Hiram Peck stated that under Authority it talks a bit about it, but he plans to research and confirm.

Curtis Bosco, Z.E.O. confirmed that the Zoning Map is revised by Smith & Co. on a regular basis, with the exception of the last change in anticipation of another change.

Article 2 - Definitions

Acting Chairman Stowell commented that he was under the impression that definitions would be in only 1 location with “See Definitions in Section” where applicable throughout the Regulations.

Curtis Bosco pointed out that the terms “The good side out/the good side in.” with respect to “Fences” were not used like some towns do and recommended that it remain that way.

All present agreed.

Matthew Robison questioned if the State is looking for or requiring the language used in Sections 2.8 and 2.11 (variety of housing, economic diversity, solar power and other renewable forms of energy).

Hiram Peck confirmed that they are not required but are in the Statutes and there is reference that towns should attempt to do those things. He welcomed alternative wording should the Commission wanted him to revise.

Curtis Bosco questioned if the formula for Building Coverage would remain the same.

Hiram Peck referenced the chart that depicts Building Coverage & Impervious Coverage which would provide additional authority in terms of trying to prevent additional runoff.

Curtis Bosco believes that whatever is touching the ground/foundation and Section 8 of the current Regulations allow cantilevers and outdoor stairs provided they are not on a foundation and touching the ground, then an applicant can get up to three (3) feet.

Hiram Peck thought the idea was to add an appropriate impervious coverage requirement.

Curtis Bosco suggested perhaps it be added to the section that falls under Lot Coverage/Setbacks.

Article 3 – Residential Districts-General & Article 4 – Residential Districts-Specifics

Hiram questioned the following

- If they should remain separate or if they should be blended and renamed “Residential Districts” and put the specifics in the beginning of the section.
- Should some of the existing Residential Districts be combined or eliminate ones that used to exist and are no longer used.

Curtis Bosco replied that the town did have an R-20 District and plenty of preexisting nonconforming areas of town (i.e. Yale Ave.) that are far below the minimum standards of R-40. In a conversation with Chairman Smith, Curt shared with him that it makes it very difficult for enforcement and for residents to do anything to enhance their properties. He went on to suggest to Chairman Smith that an R-20 Zone be designated to be specific to areas that are already developed. Curtis Bosco shared that Chairman Smith expressed his reservations due to the possibility of people trying to create an R-20 Zone elsewhere in town. Curtis Bosco then went to state that he does not necessarily agree with Chairman Smith’s concerns as he is aware of other towns that have R-20 Zones, or other designations, that are specific to predeveloped areas and that they cannot be applied anywhere else in town, yet meet the needs of those older developments.

Hiram Peck suggested that the setbacks be changed for those existing zones but agreed to give it further thought.

Acting Chairman Stowell expressed the same concerns that Chairman Smith conveyed to Curtis Bosco.

Curtis Bosco suggested possibly calling certain areas the “Village Overlay District”.

Article 6 – Business/Commercial & Industrial Districts

Terry McAuliffe, Chairman, E.D.C indicated that 7 distinct business areas were cited in the last POCD that was published and he questioned if they were the same that would be used in the Regulations. In others words, he would like the same terms to be referred in both. He also suggested that they be clarified to the way that people refer to them today what is permitted in each area. He added that the Economic Development page of the POCD, the section that references the businesses areas, it shows the map and makes mention what is allowed in said areas (i.e. GIDD).

Hiram Peck agreed to look at them.

Curtis Bosco added that as of 2 days ago, the executive order for Outdoor Dining was extended until the end of the summer of 2023.

Hiram Peck believes that from now until then, it may change permanently.

Acting Chairman Stowell acknowledged that the calculations for parking spaces are becoming an issue for those that are utilizing them for outdoor dining. He also expressed his concerns with respect to safety and what some are using in place of bollards.

Curtis Bosco confirmed that the Fire Marshal and the Zoning Officer can require certain safety standards (i.e. Mafia block planters) when it comes to outdoor dining.

Section 4.3 – Strictest Standards Control

Hiram Peck shared Chairman Smith’s suggestion that if there is a conflicting requirement, the most restrictive should be utilized and it should not be limited to just CA-40. It should be the case for all. Hiram agreed to change.

Definitions

Bed & Breakfast and Boarding House – Hiram Peck wants to members to take a look at both of them and let him know how they would like them to be addressed.

Nightclub – Hiram Peck suggested using “not be audible off of the property” as opposed to “lot decibel”.

Sign, Awning – Bill feels that it shouldn’t matter what it’s constructed of. Curtis Bosco suggested putting “fabric, metal or other”.

School - Chairman Smith suggested it be reviewed. Acting Chairman Stowell reminded the members about the “school” on South Street when he feels it was more of a group

home or a rehab. Erika Carrington mentioned “proprietary school” but was not certain if it belongs here. William Stowell commented on Sylvan Learning Center.

Sign – Matthew Robison questioned things like “For Sale” and “Hours of Operations” signs and used the sign on Regan Road as an example. He stated that it has been there for approximately 5 years and feels they should be referenced. Erika Carrington asked if the Tennis Club wanted to paint “Middlebury Racquet Club” on the side of the building if it would be considered a sign. Hiram Peck confirmed that it would be and is in the definition but added that he will be sure to plug them into the coordinating sections. Curtis Bosco stated that 32 square feet commercial signs are allowed for 1 year and must be maintained. John Calabrese suggested that it be verified that the 1-year requirement is in the Regulations. Curtis Bosco brought up the issue with the 1 X 2 neon-looking (LED) signs. The open signs are allowed to be illuminated during business hours. No motions or flashing are permitted. Additionally, sandwich boards need to be limited to a certain number and should only be allowed in front of the individual store if in a plaza. If you have a business that has street frontage, then yes, it is allowed.

Curtis Bosco affirmed that a definition may be listed although never referenced in the Regulations.

Barn – Curtis Bosco requested that the term be added. It is his understanding that it is an accessory building that would be used to house equipment, animals or other things but does not include any provisions for residency. Erika Carrington pointed out that “barn” is mentioned within the definition of “Accessory Building or Structure”. Curtis Bosco did request that it be separated along with the term “Shed”.

Diagram of Lot Types

Hiram Peck wanted confirmation that Access Ways are not allowed.

John Calabrese declared that each lot must own a 50 foot strip to the road. The lower Rear Lot is fine with the 50 foot Access Way but the others above it are not because they do not have 50 feet on an approved town road.

Hiram Peck stated that there is a subdivision now that has some lots to the rear. He was not certain if a decision was made yet, but he questioned if a deeded Access Way as opposed to ownership would work.

Curtis Bosco clarified that they applicant wants 50 foot Fee Simple to the public highway and they can share an Access Way any way you want but just in the event of something happening in the future, you have your own pathway to a public road. Acting Charmian Stowell added that the reason for it is if at some point someone says “we’re not going to let you do that anymore”, it is available. They don’t have to use it as a driveway, but it’s

there. Hiram Peck replied that the diagram or definition needs to be changed to show that it's not an Access Way, but rather Fee Simple ownership to the public highway.

Manufactured Home Park or Subdivision

Hiram Peck announced that the Federal Fair Housing Act has become stricter regarding manufactured homes and that you can't discriminate against them. Trailer Parks typically come to mind but have come a long way. He plans to discuss with Attorney Dana D'Angelo. Curtis Bosco suggested adding the term "modular home".

5.1 Planned Residential Development Overlay District

Hiram Peck shared that Chairman Smith requested that this section be removed and stay with the existing section 3.6 only. Curtis Bosco feels that it should remain as it clearly defines what is allowed and that the only thing that needs to be changed is if the Legislature puts forth mandates. Acting Chairman Stowell made mention of an area on Christian Road as an example of an area that is included in it. Erika Carrington feels that snow removal should be added. John Calabrese added that there may be mention of snow removal in the parking section. Hiram Peck stated he would look into it.

Attainable Housing Overlay Zone

Matthew Robison questioned Hiram Peck's reference to "and Hiram Peck replied that it is a term he prefers to use because he likes it better. Matthew Robison concurred.

3.6 Open Space Subdivision

John Calabrese stated that within a PRD they have created houses that are close to each other and feels that they are making cluster housing out of a subdivision. Hiram Peck replied that the idea is to preserve some of it as open space. In some cases it could be 1/3 or 50% as open space and the rest of it is considered a cluster development. There is a trend now that many people prefer smaller lots and smaller houses requiring less maintenance and some places turn the open space into community gardens. Matthew Robison feels that people want bigger houses with smaller lots to take care of. Erika Carrington agreed. Hiram Peck made mention of the turmoil that has resulted from associations.

3.4 Accessory Uses and Structures - B. e. (1) & (2)

Acting Chairman Stowell questioned if the 2 sections were being defined by size. Curtis Bosco made mention of the contradiction in the current Regulations that 5 acres of land are required in one section, then 2 acres in another. Hiram Peck replied that the idea was base them on the size of the animals but may not be as well organized as it needs to be. Chickens, roosters and peacocks were also mentioned.

Hiram Peck announced that he will make changes based on everyone's input and feels another meeting is warranted.

Section 8.3 - Parking & Loading - E

Acting Chairman Stowell voiced his concerns with respect to restaurants and other establishments utilizing parking lots within 300 feet across the street from an establishment and people having to cross said street. Hiram Peck offered to put in something about specific accommodations may be required if safety is of concern. He also suggested pedestrian crossing signals. Additionally, Bill requested that handicap space requirements be clarified depending on building use. John Calabrese, replied that the Building Official usually looks at that and that on some projects he puts that the Building Dept. must approve the number of handicap parking spaces as a condition of approval. He offered to make that standard practice when applicable moving forward.

3 – Location

John Calabrese stated that the requirement of 75% of the parking to be behind the building causes an issue for Routes 63 & 64 as they must be 75 feet back from the property line. This forces the building back which ultimately forces them to put parking in the front. He questioned if something could be done about the 75 foot requirement.

Section 10 Procedure Requirements - E

Erika Carrington questioned if legal notices are required to be put on the town's website. Hiram Peck replied that it is not required but can be done. He still highly recommends that they continue to be published in the paper. Recording Clerk Rachelle Behuniak offered to post them on the website once the option is made available on the website. Erika also expressed the need to send abutting land owners the notice in the mail. Curtis Bosco stated that he has been working very closely with ZBA over the last year and half and they have modified how they do things. They require an A2 Survey and ZBA also wants to make it a requirement that you notify your contiguous property owners and the people across the street by certified mail. He is aware that ZBA can set their own guidelines but it's better to be in the Zoning Regulations. Currently, certified notifications are not required and he believes it has become a problem. ZBA is requesting that P&Z enact it. Hiram Peck confirmed he would take a look at it as he believes they are important.

Matthew Robison questioned if adjoining property owners are notified about a proposed zone change. Curtis Bosco confirmed that they have to for Special Exceptions and Zone Changes although he wasn't certain if it is within 200 or 500 feet. William Stowell announced that an abutting land owner on Christian Road did not get notified.

Acting Chairman Stowell requested that Doggy Day Care be referenced in section K if it is considered a commercial kennel & stable.

4. Adjournment

Motion: to adjourn the meeting at 10:45 A.M. Made by Matthew Robison, seconded by William Stowell. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Recording 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