



TOWN OF MIDDLEBURY

Conservation Commission
1212 Whittemore Road
Middlebury, Connecticut 06762
(203) 577-4162 ph
(203) 598-7640 fx

REGULAR MEETING MINUTES April 28, 2020

*** Via Video Conference | Zoom Meeting #975-0452-0475***

Members Present:

Paul Bowler, Chairman
Mary Barton, Vice Chairwoman
George Tzepos
Greg Bonacorsi
Curtis Bosco

Members Absent:

Joseph Martino
Keli-Ann Bollard

Also Present:

Deborah Seavey, W.E.O.
John Calabrese, P.E.

I. CALL TO ORDER

The Regular Meeting was called to order at 7:30 p.m. by Chairman Bowler.

II. ACTION ON MINUTES:

February 25, 2020 Regular Meeting

Motion: to accept the Minutes of the February 25, 2020 Regular Meeting. Made by George Tzepos, seconded by Greg Bonacorsi. Unanimous Approval.

III. OLD BUSINESS

None

IV. NEW BUSINESS

1. Application #445 – 1680 Straits Turnpike (received date of 4/21/2020)

Attorney Michael A. Ceccorulli of Pullman & Comley LLC, 90 State House Square, Hartford, CT 06103 spoke on behalf of the applicant. He stated that the application was filed over an abundance of caution due to conversations that took place with the W.E.O. on the basis of the installation of drainage at the site. There was some concern that there may be jurisdiction by this Commission. He added that there are no wetlands on the property, no watercourses and none of the construction that is expected to take place on the site involves any upland review area. From their perspective, they do not believe that there is a necessity for review by the Conservation Commission but wanted to present it before them for consideration on that point and asked that they reach a determination on question of jurisdiction. The application involves a Cumberland Farms Gas Station Convenience Store. There is substantial amount of impervious surface that will be installed and they have a drainage system that aggregates the majority of the runoff all directly into a detention basin on the east side of the property. He reviewed the plans with the members of the Commission and added that all of the drainage will be discharged to existing storm drainage currently in the roadway, along Park Road and some will discharge further west and north onto the intersection on Straits Turnpike. The detention basin that is installed, in the event of an extraordinary flood situation/over a 100 year flood, that detention basin would discharge to the east. The property boundary is also the town line. Discharge would flow out to the City of Waterbury on the adjacent parcel, which is owned by the seller that Cumberland Farms purchases this property from. The sellers reviewed this application and approved it as evidence by their authorization affidavit that was submitted in connection with the Planning & Zoning Commission applications that are currently pending. To his knowledge, the City of Waterbury was entitled to a statutory notice as well and it was made by the town. In his discussions with Mr. Brammer from the City of Waterbury, he acknowledged that he was aware of the application and had seen the site design because they had gone to him several times in the past. It is his understanding that Mr. Brammer had no concerns about the discharge into his city as it would not be discharging into any upland review area, watercourse or wetland. He added that he is not aware if the Town of Middlebury received any comments.

Deborah Seavey, W.E.O. stated that to date she has not received any correspondence from the City of Waterbury.

Attorney Michael A. Ceccorulli clarified that the entirety of the site is located in the Town of Middlebury and reiterated that in the event of an extraordinary flood event and the entire detention basin were filled to capacity, it would discharge into Waterbury. None of the water would be directed, aside from what's directed to the existing storm drainage system in the public right-of-way.

Mary Barton questioned what stormwater quality measures were included in the plan.

Luke DiStefano from Bohler Engineering stated that they prepared the plans and designed a comprehensive stormwater management system. One that is certainly going to mitigate any of the impacts that are a result of this particular development. In addition to the basin itself, there is a complex series of deep sunk basins which are going to convey stormwater to a stormwater quality unit prior to the water being discharged into the basin. It is designed to hold and attenuate up to and including a 100 year storm event.

Mary Barton questioned if there was a maintenance plan for the stormwater quality unit and if it could be shared with the Commission.

Luke DiStefano stated that they do and that they would.

Deborah Seavey, W.E.O. stated that both her and John Calabrese, P.E. do have some concerns with respect to the drainage that they would like to discuss them with the engineer.

Mary Barton suggested to table this application to the next meeting to give everyone time to review the plans.

Attorney Michael A. Ceccorulli asked this Commission to decide whether or not they have legal jurisdiction over this application.

Mary Barton stated that the Wetlands Commission has the ability to look at the impacts of downstream water quality and quantity and added that she would feel more comfortable if the Commission and staff did a full review.

Motion: that the Conservation Commission has jurisdiction over Application #445 – 1680 Straits Turnpike as it pertains to the Commission. Made by Mary Barton, seconded by George Tzepos. Unanimous Approval.

Chairman Bowler questioned how far is the edge of the property from a wetlands course even if it isn't in the town of Middlebury.

Attorney Michael A. Ceccorulli response was that it is over 100 feet and if there were a question of an upland review area subject to jurisdiction, only Waterbury would have the ability to review that. Additionally, there is case law that towns cannot review discharge into other jurisdictions and offered to provide a copy to the Town Attorney.

John Calabrese, P.E. voiced his concerns that there will be discharge directly into the Town of Middlebury drainage system which then enters the pond which is in Waterbury. He also stated that he would feel more comfortable if the owner of the neighboring property would be willing to grant a right-to-drain.

Motion: to table the discussion regarding Application #445 – 1680 Straits Turnpike until the next Regular Meeting. Made by Mary Barton, seconded by George Tzezos. Unanimous Approval.

Mary Barton requested a copy of the case law and a pdf version of the site development plan and any drainage information.

2. Permit Renewal #357 – Benson Road /Route 188

Deborah Seavey, W.E.O. stated that this was originally approved in June of 2015 for a commercial building on Benson Road and Route 188 and no changes have been made.

Motion: to renew Permit #357 – Benson Road/Route 188. Made by Mary Barton, seconded by Gregory Bonacorsi. Unanimous Approval.

3. Application #446 – 12 Tylers Cove

Motion: to add Application #446 – 12 Tylers Cove to the agenda. Made by Curtis Bosco, seconded by George Tzezos. Unanimous Approval.

Ron Wolff, P.E. spoke on behalf of the applicant and reviewed the plans with the Commission. They are looking to repair the upper stonewalls and stairs. The entire property is within the 100 foot upland review area. There will be no expansion of the walls and is for maintenance purposes. If there is to be any other changes, they will consult with Deborah Seavey, W.E.O.

Curtis Bosco added that he visited the site and witnessed the need for repairs.

Application #446 – 12 Tylers Cove

Motion: to allow agent approval by Deborah Seavey, W.E.O. for Application #446 – 12 Tylers Cove. Made by Mary Barton, seconded by Greg Bonacorsi. Unanimous Approval.

V. ADJOURNMENT

Motion: to adjourn the meeting at 8:00 P.M. Made by George Tzezos, seconded by Mary Barton. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Brigitte Bessette, Town Clerk

cc: Conservation Commission Members
Debbie Seavey, W.E.O.
Ollie LeDuc, Building Official
John Calabrese, P.E.
Terry Smith, P&Z Chairman
Curtis Bosco, Z.E.O.
Attorney Robert Smith, WPCA