



## **TOWN OF MIDDLEBURY**

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

### **April 5, 2018 REGULAR MEETING MINUTES**

#### **REGULAR MEMBERS PRESENT**

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

#### **REGULAR MEMBERS ABSENT**

#### **ALTERNATE MEMBERS PRESENT**

Jeffrey Grosberg

#### **ALTERNATE MEMBERS ABSENT**

Paul T. Babarik

#### **ALSO PRESENT**

John Calabrese, P.E.  
Curtis Bosco, Z.E.O.  
Attorney Dana D'Angelo

#### **CALL TO ORDER**

Chairman Smith called the Regular Meeting to order at 7:00 p.m. He announced that the Toll Brothers application would be tabled and no action would be taken. The applicant requested an extension as they are revising their site plan and he anticipates that will come before this Commission next month.

#### **ROLL CALL AND DESIGNATION OF ALTERNATES**

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

## **PUBLIC HEARING**

### **1. 1365 LLC and Southford Road Associates, LLC/1365 Whittemore Rd.(West St.)/86 Woodland Rd./1435 Middlebury Road/West Street-Application for a Special Exception for an Excavation & Grading Permit pursuant to Sections 64.2 & 64.3 of the Regulations (Application #2018-2-2)**

Chairman Smith read the Legal Notice published in the Waterbury Republican on 3-21-18 and in Voices on 3-28-18 for the record.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. They are seeking to expand the parking for Middlebury Consignment Shop for the restaurant/banquet facility. This Commission approved the changes of use on this property. Per the parking calculations, 189 spaces are required and the existing plan shows 195 spaces. They are proposing to excavate 6,945 cubic yards of material. Pursuant to the Parking Regulations, they are proposing to defer some of the parking around the house. In addition, they are offering to have valet parking in place once the banquet facility is open. This would allow for stacking of parked cars as spaces are applied. He submitted the following documentation for the record:

- 1) Copy of the Conservation Commission Draft Resolution in accordance with their approval at their March 27, 2018 Regular Meeting;
- 2) Copy of letter from Chief of Police Francis Dabbo to Attorney McVerry dated 4-3-18 indicating his approval;
- 3) Copy of letter from Torrington Area Health District, Registered Sanitarian Justin Rompre to Attorney McVerry dated 3-28-18, indicating that their only concern is once the area around 86 Woodland is paved, that the septic be abandoned and connect to the sewer;
- 4) Copy of email from Fire Marshal Jack Proulx to Attorney McVerry dated 4-4-18 indicating his concerns regarding accessing the back areas of the parking lot. He suggested that the applicant leave one of the spaces empty as a "No Parking" space to allow for truck access.

David Hughes, P.E. of 57 Norway Street, Oakville, CT 06779 added that they are in receipt of the Engineering Reviews from Calabrese Engineering dated 4-2-18 and submitted his response letters (dated 4-4-18) to said reviews concerning the Site Plan and for the Excavation and Grading.

Erika Carrington questioned why there are parking spaces in the buffer.

Chairman Smith stated that the six (6) spaces would not be possible as the Regulations do not allow it.

David Hughes, P.E. agreed to remove them and stated that they would still have a sufficient number of spaces. He also confirmed that he spoke with John Calabrese, P.E. and that they agreed they would not make any revisions that he asked for unless this Commission approves it, there is a Resolution, the revisions are minor and do not affect the concept of the plan.

Chairman Smith expressed that he does not feel that they do and gave examples of trees being the correct height and the need for softer lighting color (not bright white).

Matthew Robison questioned if the house was occupied.

Attorney McVerry stated that it is being occupied by Dean John Yimoyines and his wife.

David Hughes, P.E. pointed out the change in the layout of the parking on the deferred plan makes it less intrusive on the property. Based on last month's meeting, the parking in the 50 foot buffer area was removed and alternatively, he added them along the edge of the greenway. He reviewed the proposed guardrails on the full set, but acknowledged that landscaping was not shown on the deferred plan.

William Stowell requested that something tall be put in place for protection and for snow removal purposes so as to avoid the potential of snow piling by the greenway.

David Hughes, P.E. confirmed that they would be willing to do so as part of the landscaping plan. It was his intent that the landscaping plan for the entire parking would be the basis for the deferred plan and apologized for not putting it together. He also offered to pull back four (4) spaces, providing an additional twenty (20) feet of area away from the greenway, and to plant arborvitaes. The intent of the Temporary Parking Plan is to allow the applicant to have the deferred amount of parking spaces to service the new use while the new parking lot is being constructed. Therefore, the best way to do that was to create a plan that would allow them to provide valet parking during that time of construction (March through October).

William Stowell questioned if the Fire Marshal viewed the plans, as he doesn't believe he would be in agreement with being able to park so close to the back of the building.

David Hughes, P.E. was uncertain if the Fire Marshal viewed said plans but stated that it is only one (1) additional space closer to the building. He also confirmed that once the construction is complete, it would go back to the regular parking.

Chairman Smith recommended that the parking not be lined.

David Hughes, P.E. also submitted a Retaining Wall Detail dated 4-5-18 for the record. It will be a stone-faced retaining wall and the detail will be put on the final plan.

Attorney McVerry added that there will be no additional lighting in the existing parking lot.

**Motion:** to close the Public Hearing at 7:28 p.m. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

### **MINUTE APPROVAL**

#### **2. Discussion of the Minutes of the Regular Meeting held on March 1, 2018**

**Motion:** to approve the Minutes of the March 1, 2018 Regular Meeting as submitted. Made by Joseph Drauss, seconded by William Stowell.

**Discussion:**

Matthew Robison announced that he would abstain from voting as he was not present at the March 1, 2018 meeting.

Chairman Smith appointed Alternate Member Grosberg to act in place of Regular Member Robison.

Unanimous Approval.

### **OLD BUSINESS**

#### **3. Toll CT II, L.P./Southford Rd. (Rt. 188) – to Accept the application and set a Public Hearing for February 1, 2018 for Preliminary & Final Development Approval and Special Exception for Excavation & Grading Permit (Application 2017-12-3)**

Discussion was tabled.

#### **4. 1365 LLC and Southford Road Associates, LLC/1365 Whittemore Rd.(West St.)/86 Woodland Rd./1435 Middlebury Road/West Street-Application for a Special Exception for an Excavation & Grading Permit pursuant to Sections 64.2 & 64.3 of the Regulations (Application #2018-2-2)**

**Motion:** to approve the application per the attached Resolution. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

**5. 1365 LLC and Southford Road Associates, LLC/1365 Whittemore Rd.(West St.)/86 Woodland Rd./1435 Middlebury Road/West Street-Application for a Site Plan (Application #2018-2-3)**

- 1) **Motion:** to approve the application per the attached Resolution. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.
  
- 2) **Motion:** to approve the Deferred Plan as shown on Sheet D-1 with the following modifications:
  - a) Removal of the four (4) parking spaces nearest the greenway;
  - b) Addition of guardrail and arborvitaes along the greenway;
  - c) Removal of six (6) parking spaces in the buffer.Motion made by Erika Carrington, seconded by William Stowell. Unanimous Approval.
  
- 3) **Motion:** to approve the Temporary Parking Plan as shown on Sheet T-1 conditioned upon:
  - a) Review of the Fire Marshal and his approval;
  - b) Time period not to exceed seven (7) months.Motion made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

**NEW BUSINESS**

**6. Tranquility Estates, LLC/211 Tranquility Road-Application for Site Plan Modification (Application 2018-3-1)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. The property consists of 34 acres of farmland which was approved by this Commission for a vineyard. There is a break in the stone wall and the applicant is seeking to expand it. The Conservation Commission granted approval for a culvert in the area to allow access into the fields. He confirmed receipt of the comments submitted by Calabrese Engineering prior to Conservation Commission approval which were included in their approval.

David Hughes, P.E. of 57 Norway Street, Oakville, CT 06779 added that the existing wall has a barway in it and that one (1) side will be expanded to 35-40 feet. He was uncertain of the dimension of the opening of the existing barway but suspects that it is approximately 15 feet.

Chairman Smith voiced his concerns with respect to the Scenic Road Ordinance which states “Nothing herein shall prohibit a landowner from permanently moving a portion of a stone wall in order to construct or improve a driveway or in the case of a subdivision connect to a designated scenic road.” Therefore, he doesn’t believe a Public Hearing is required for that aspect of the application. However, he feels that a Public Hearing is needed for the drainage work because it is in the Town right-of-way.

Attorney McVerry stated that the First Selectman did sign off on the application and that they do have a driveway permit.

Chairman Smith offered to set the Public Hearing for next month.

John Calabrese, P.E. added that the the original application had smaller piping but after a thorough review, it was decided that the current proposed piping would function better.

**Motion:** to schedule a Public Hearing for May 3, 2018. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

**7. 8-24 referral from Board of Selectman for the lease of the lower level of the Library, 30 Crest Road**

Attorney Dana D’Angelo stated that on April 2, 2018, the Town received a proposal for a four (4) year lease from Kelly & Company which is an accounting firm. The matter was referred by the Board of Selectmen to this Commission for an 8-24 referral.

All present agreed that they would be a good tenant.

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

**OTHER BUSINESS**

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

None

**9. 1365, LLC/1365 Whittemore Road- Informal discussion regarding signage**

Dean Yimoyines submitted and reviewed a signage packet with the Commission. He acknowledged that he does not plan to go ahead with all of the signage within said packet but wanted this Commission to be aware of the proposed signage prior to submitting a formal application.

Attorney McVerry confirmed that all of the letter sizes are compliant.

**10. Enforcement Report**

The members of the Commission congratulated ZEO Curtis Bosco on receiving his recent certification.

Curtis Bosco, ZEO provided a new Zoning Map for all of the members of the Commission.

**11. Adjournment**

**Motion:** to adjourn the meeting at 8:21 p.m. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Edith Salisbury, Town Clerk

cc: P&Z Commission Members  
Paul Bowler, Chairman, Conservation Commission  
Ollie LeDuc, Building Official  
Curtis Bosco, Z.E.O.  
Ken Long, Chairman, Z.B.A.  
Attorney Dana D'Angelo  
Larry S. Hutvagner, CFO  
Rob Rubbo, Director of Health

## RESOLUTION

Upon motion by Commissioner Drauss, seconded by Commissioner Carrington, it was voted unanimously to approve the application of 1365 LLC & Southford Road Associates LLC & 1435 Middlebury Road for an Excavation & Grading Special Permit located on 1365 Whittemore Rd., 86 Woodland Rd. & 1435 Middlebury Rd., and as shown on Site Plan entitled Proposed Parking Plan-1365 Whittemore Rd. and prepared by David A. Hughes, P.E. and dated February 20, 2018, revised to April 5, 2018.

The Commission specifically finds The Application:

1. is in compliance with the requirements of the Panning & Zoning Regulations 64;

The Application is subject to the following conditions/modifications:

- a) providing bond satisfactory to the Commission and the Board of Selectmen;
- b) posting of a landscape bond as determined by the Board of Selectmen;
- c) signing of the Map by the First Selectman;
- d) signing of the Map by the Conservation Officers;
- e) conditions detailed on letter by Calabrese Engineering dated April 2, 2018;
- f) restoration of all disturbed areas per Section 64.7

If the above conditions and or modifications are complied with within 90 days of this decision, the Chairman is authorized to sign the Map. Otherwise, the application is to be considered disapproved and denied.

April 5, 2018



## SITE PLAN RESOLUTION

Upon motion by Commissioner Stowell, seconded by Commissioner Drauss, it was voted unanimously to approve the application of 1365 LLC & Southford Road Associates LLC & 1435 Middlebury Road for a SITE PLAN located on 1365 Whittemore Rd., 86 Woodland Rd. & 1435 Middlebury Rd., as shown on Site Plan entitled Proposed Parking Plan-1365 Whittemore Rd and prepared by David a. Hughes, P.E. and dated February 20, 2018, revised to April 5, 2018.

The Commission specifically finds The Application:

1. is in compliance with the requirements of the Panning & Zoning Regulation 51.3.1

The Application is subject to the following conditions/modifications:

- a) providing bond satisfactory to the Commission and the Board of Selectmen;
- b) posting of a landscape bond as determined by the Board of Selectmen;
- c) signing of the Map by the First Selectman;
- d) signing of the Map by the Conservation Officers;
- e) recommendations detailed on letter by Calabrese Engineering dated April 2, 2018;
- f) remove last 6 parking spaces in buffer;
- g) add additional arborvitaes by guardrail by greenway.

If the above conditions and or modifications are complied with within 90 days of this decision, the Chairman is authorized to sign the Map. Otherwise, the application is to be considered disapproved and denied.

April 5, 2018

RESOLUTION

**Regarding the lease of 2,770 square feet in the lower level of the Middlebury Library, 30 Crest Road, Middlebury by the Town of Middlebury to Kelly & Company, LLC**

After review of the Offer to Lease, and other supporting documents, the Planning and Zoning Commission of the Town of Middlebury finds that would be in the Town of Middlebury's best interest to lease of 2,770 square feet in the lower level of the Middlebury Library, 30 Crest Road, Middlebury to Kelly & Company, LLC. Therefore,

**BE IT RESOLVED:**

That in accordance Connecticut General Statute §8-24, the Planning and Zoning Commission of the Town of Middlebury recommends lease of 2,770 square feet in the lower level of 30 Crest Road, Middlebury by the Town of Middlebury to Kelly & Company, LLC. Said lease shall be for a period of 4 years with 3, 1 year options at a beginning rent of \$1,600.00 per month. This recommendation shall be submitted to the Board of Selectman.

April 5, 2018