



## **TOWN OF MIDDLEBURY**

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

### **May 3, 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**

#### **ALTERNATE MEMBERS ABSENT**

Paul T. Babarik  
Jeffrey Grosberg

#### **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 6:59 p.m.

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

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

## **PUBLIC HEARINGS**

### **1. Tranquility Estates, LLC/211 Tranquility Road-Application for Site Plan Modification and drainage improvements on Tranquility Road (Application 2018-3-1)**

Chairman Smith called the Public Hearing to order at 7:00 p.m. and read the Legal Notice published in Voices on 4-18-18 & 4-25-18 for the record.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. He stated that the applicant basically owns the remainder of the Tranquility Farm property which consists of approximately 34 acres. Currently there is an existing barway on the property off of Tranquility Road and the applicant is seeking to widen the barway and have a wetlands crossing coming in from Tranquility Road which would include a culvert.

Chairman Smith declared that the Public Hearing is only concerned about the culvert due to the fact that it is a scenic road.

Attorney Michael McVerry continued to say that the Scenic Road Ordinance allows property owners to remove parts of stone walls for access purposes. As part of this application, they wish to improve some of the drainage on the site as well.

David Hughes, P.E. of 57 Norway Street, Oakville, CT 06779 declared that during the process of approvals with the Conservation Commission, the Town Engineer John Calabrese made a recommendation that the culvert be extended from the existing culvert up past the proposed re-access way. Therefore, the plans have been revised.

Attorney Michael McVerry added that with respect to the Scenic Road Ordinance, per page 73 it states, *Nothing herein shall prohibit a landowner from permanently removing a portion of a stone wall in order to construct or improve a driveway.*

Chairman Smith asked that copies of the plans be made available for the public's viewing to which Mr. Hughes complied.

Jean Peterson, owner of two (2) parcels on Tranquility Road, expressed her concern with the potential rise in the elevation from Tranquility Road to the wall and questioned how it would be dealt with.

Chairman Smith stated that it will basically be level. They plan to pipe the swale and make it level to the bottom of the wall.

David Hughes, P.E. confirmed that the finished grade at the stone wall will still be relatively lower than the existing edge of pavement but not by much. He estimated it to be no more than approximately one (1) foot. Additionally, he stated that the driveway apron must be paved for at least 25-35 feet per the driveway ordinance. As a result, it will take them a little further into the stone wall and approximately 35-40 feet wide to allow for two-way traffic, farm equipment and emergency vehicle access.

**Motion:** to close the Public Hearing at 7:07 p.m. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

**2. 1365, LLC/1365 Whittemore Road. (West St.)-Application for a Special Exception for a Sign (Application #2018-4-3)**

Chairman Smith called the Public Hearing to order at 7:08 p.m. and read the Legal Notice published in Voices on 4-18-18 & 4-25-18 for the record.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. This is the site of the Middlebury Consignment Shop soon to be Vyne Restaurant and The Whittemore banquet facility. He submitted exhibits of three (3) proposed signs as well as a color rendering which would apply to all signs. Option #1 (4" letters) would comply with the existing Zoning Regulations, have a total of twenty four (24) square feet on the sign but feels it would not draw much attention to the businesses on site. Option #2 (7" letters), has a total of twenty four (24) square feet on the sign. Both sign options would be twelve (12) feet high, complying with the Regulations. Option #3 (7.5" – 8.75" letters) and the total sign would be thirteen (13) feet high. The applicant would prefer option #3 or #2, respectively. However, should option #3 look too large, he would scale it back to option #2.

**Motion:** to close the Public Hearing at 7:16 p.m. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

**MINUTE APPROVAL**

**3. Discussion of the Minutes of the Regular Meeting held on April 5, 2018**

**Motion:** to approve the Minutes of the April 5, 2018 Regular Meeting as submitted. Made by Joseph Drauss, seconded by William Stowell. Unanimous Approval.

**OLD BUSINESS**

**4. 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)**

Attorney Joseph Williams of Shipman & Goodwin, 265 Church Street, Suite 1207, New Haven, CT 06510 spoke on behalf of the applicant. He stated that at the Regular Meeting of the HOA a few weeks ago, a proposal was put forward to essentially keep the Great Lawn as it currently exists and move the gazebo and playground to other areas of the development. All of the people who attended said meeting voted unanimously to approve the proposed changes. A letter dated 4-13-18 from Zachary Olive, Home Owner's Representative, Ridgewood at Middlebury Board of Directors, was submitted for the record indicating said unanimous approval.

Dan Kroeber of Milone & MacBroom presented and reviewed the Site Plan Master Plan that was in the modified set and modified on 4-16-18. As requested, there will be some plantings on either side of the lawn area. The playground will be relocated to another spot on site. The gazebo will be moved up to Phase III and the amenity of the trail will be spread out for all of the residents to enjoy. The temporary crossing through the wetlands, which was being utilized for construction access up to Phase II, will now be kept in a permanent condition per the request and approval of the Conservation Commission.

Attorney Joseph Williams submitted a copy of the 4-24-18 Conservation Commission Regular Meeting Minutes for the record.

Dan Kroeber of Milone & MacBroom added that a section of the temporary construction road will remain as well.

Chairman Smith questioned if everything that the residents agreed to unanimously is on the plan.

Dan Kroeber of Milone & MacBroom replied "As far as I'm concerned, yes."

Ted Merchant, Land Development Director with Toll Brothers, added that there were a couple of points that came up late in the process that he wanted to mention. After they met with the HAO and received approval from the Conservation Commission, there were some discussions with Town staff on the following two (2) points:

1. The current emergency access road ends close to the intersection of Bona Road and is where all construction traffic is coming in. At the suggestion of Z.E.O. Curtis Bosco, they will leave it in place as it is and make it the permanent solution;
2. The path from where the emergency access turns off to where the path becomes paved is proposed to be stone dust. However, Town staff suggested that it may be easier to maintain if it is asphalt millings.

Ted Merchant stated that they are willing to leave the decision up to this Commission.

Chairman Smith and the members of the Commission indicated that they are in agreement with the emergency access road. He went on to question if Toll Brothers would prefer stone dust or asphalt millings as they will be the ones responsible to maintain it.

Ted Merchant acknowledged that stone dust would be their preference and that since it is just a walking path and fairly level, he does not feel that erosion will be a major concern.

Chairman Smith announced that Z.E.O. Curtis Bosco received an email on 5-3-18 from Fire Chief Tony Bruno stating that the property owner/management must maintain and keep the emergency access road clear at all times. In addition, codes/keys for the locks on the gates must be given to the fire department and police department or changed to a Middlebury lock.

#### **Site Plan**

**Motion:** to approve the Site Plan application per the attached Resolution. Made by William Stowell, seconded by Joseph Drauss.

#### **Discussion:**

Matthew Robison stated that although he was not present at the March 1, 2018 Regular Meeting, he did read the Minutes and listened to the recording as well.  
Unanimous Approval.

#### **Excavation & Grading**

**Motion:** to approve the application for the Excavation & Grading Permit per the attached Resolution. Made by William Stowell, seconded by Erika Carrington. Unanimous Approval.

**5. Tranquility Estates, LLC/211 Tranquility Road-Application for Site Plan Modification and drainage improvements on Tranquility Road (Application 2018-3-1)**

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

**NEW BUSINESS**

**6. 1365, LLC/1365 Whittemore Road. (West St.)-Application for a Special Exception for a Sign (Application #2018-4-3)**

**Motion:** to approve the application for a Special Exception for a sign at 1365 Whittemore Road due to the location of the building on the lot and the fact that a normal size sign would substantially limit easy identification of a group of stores or a shopping center. Made by Matthew Robison, seconded by Joseph Drauss. Unanimous Approval.

**7. Janis & Michael Carnaroli/7West Lake Rd.-Application for a Site Plan (Application #2018-5-1)**

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. They are the owners of Unit 21 at West Shore and are seeking permission to rebuild their cottage into a house on site. They met with the West Shore Board on Monday evening at which time the applicant received a full approval for their plans.

Chairman Smith asked for copy of the approval from West Shore Board.

Scott Meyers, P.E. stated that they have a copy of the signed map.

Attorney McVerry added that the Minutes of their meeting were not yet complete but would bring them next month.

**Motion:** to accept the application and refer it to the Town Consultant. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

**8. Presentation by Town Attorney regarding an 8-24 referral for the purchase of land at 10 Lakeview Drive**

Attorney Dana D'Angelo stated that she received a call from Mr. Harlamon who is looking to purchase the remainder of the lots on Washington Drive from United Bank. It has been determined that 10 Lakeview Drive (Lot 15), which consists of 1.63 acres, is not a buildable lot. She discussed the details set forth in the Resolution which was recited by Chairman Smith.

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

**Discussion:**

William Stowell announced that he wished to recuse himself from this agenda item as he is the owner of neighboring properties.

Chairman Smith and Matthew Robison also voted in favor of the attached Resolution.  
Vote: 4:0. Unanimous Approval.

**OTHER BUSINESS**

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

**Motion:** to add Tranquility Road emergency bridge repair to the agenda. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

John Calabrese, P.E. stated that for informational purposes, he wanted to make the members of the Commission aware that he was called out to the bridge on Tranquility Road by Director of Public Works Dan Norton, due to a collapse of the arch on the bridge. He reviewed several photos of the damage with the Commission and discussed the various solutions that will be implemented in order to repair and secure the wall. He stressed the urgency of the needed repairs and added that he will also be presenting this to the Conservation Commission at their next meeting. He feels the plan will strengthen the arch and the bridge yet still allow them to be able to maintain the look of the bridge.

Chairman Smith said the Town is doing it as an emergency and that the Scenic Road Ordinance allows for it.

**10. Enforcement Report**

Curtis Bosco, Z.E.O. stated that the Building Inspector informed him that Brookside Memorial is going to be looking for a Certificate of Occupancy which will require

various departments to sign off. One of the conditions of approval was that they submit a planting schedule, which he did receive this week.

Chairman Smith asked Curtis Bosco, Z.E.O to review the planting schedule to be sure that it complies with the parking regulations.

Curtis Bosco, Z.E.O. stated that he plans to obtain a stamped certification from the professional engineer.

### **11. Adjournment**

**Motion:** to adjourn the meeting at 8:02 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



## SITE PLAN RESOLUTION

Upon motion by Commissioner Stowell, seconded by Commissioner Drauss, it was voted unanimously to approve the application of Toll CT II, L.P./Southford Road for a SITE PLAN located on Southford Road., Rt. 188 & Rt. 64., as shown on Record Subdivision Map entitled Ridgewood at Middlebury and prepared by Milone & MacBroom and dated June 27, 2011, revised April 16, 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) conditions of Calabrese Engineering letter dated April 30, 2018;
- f) conditions of email from Fire Chief Tony Bruno to ZEO Curtis Bosco dated May 3, 2018;
- g) emergency access road to remain in place to Rt. 188.

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.

May 3, 2018

## RESOLUTION

Upon motion by Commissioner Stowell, seconded by Commissioner Carrington, it was voted unanimously to approve the application of Toll CT II, L.P./Southford Road for an Excavation & Grading Special Permit, SITE PLAN located on Southford Road., Rt. 188 & Rt. 64., as shown on Record Subdivision Map entitled Ridgewood at Middlebury and prepared by Milone & MacBroom and dated June 27, 2011, revised April 16, 2018.

The Commission specifically finds The Application:

1. is in compliance with the requirements of the Panning & Zoning Regulations Section 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 of Calabrese Engineering letter dated January 29, 2018;
- f) all roads including construction access roads shall be kept dust free by sweeping, water, calcium chloride or other means applicable;
- g) no construction vehicles will be staged waiting to enter site before or after stated hours of operation.

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.

May 3, 2018

## SITE PLAN RESOLUTION

Upon motion by Commissioner Stowell, seconded by Commissioner Carrington, it was voted unanimously to approve the application of Tranquility Estates, LLC/211 Tranquility Road for a SITE PLAN MODIFICATION located on Tranquility Road. and as shown on Record Subdivision Map entitled Site Plan-Farm Dr. Tranquility Estates LLC and prepared by David A. Hughes and dated February 27, 2018, revised March 27, 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;

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.

May 3, 2018

RESOLUTION

**Regarding the purchase 10 Lakeview Drive, 1.63 acres,  
known as Map 1-00-400F by the Town of Middlebury  
from United Bank, a Connecticut State Chartered Bank  
and/or its successors and/or assigns**

After a review of the Assessor's Card and other supporting documentation the Middlebury Planning and Zoning Commission in accordance with Connecticut General Statute §8-24, the Planning and Zoning Commission of the Town of Middlebury finds that would be in the Town of Middlebury's best interest to purchase 10 Lakeview Drive, 1.63 acres, known as Map 1-00-400F from United Bank, a Connecticut State Chartered Bank and/or its successors and/or assigns in exchange for the \$20,000.00 owed to the Town of Middlebury as evidenced by a Promissory Note dated June 6, 2012 and a Mortgage dated June 6, 2012 and recorded in Volume 266 at Page 846 of the Middlebury Land Records. Therefore,

**BE IT RESOLVED:**

That in accordance Connecticut General Statute §8-24, the Planning and Zoning Commission of the Town of Middlebury recommends the purchase of 10 Lakeview Drive, 1.63 acres, known as Map 1-00-400F from United Bank, a Connecticut State Chartered Bank and/or its successors and/or assigns. Said transfer shall be in exchange for the \$20,000.00 owed to the Town of Middlebury as evidenced by a Promissory Note dated June 6, 2012 and a Mortgage dated June 6, 2012 and recorded in Volume 266 at Page 846 of the Middlebury Land Records. This recommendation shall be submitted to the Board of Selectman.