



TOWN OF MIDDLEBURY

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

March 7, 2019 REGULAR MEETING MINUTES

REGULAR MEMBERS PRESENT

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

REGULAR MEMBERS ABSENT

ALTERNATE MEMBERS PRESENT

Jeffrey Grosberg

ALTERNATE MEMBERS ABSENT

ALSO PRESENT

John Calabrese, P.E.
Curtis Bosco, Z.E.O.

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 Grosberg as present.

PUBLIC HEARINGS

1. BOCH Middlebury Waterbury, LLC – Application for Text Amendment of Sections 31 and 52 of the Middlebury Zoning Regulations (Application #2018-12-2)

Chairman Smith read the following for the record:

- Legal Notice published in Voices on 2-20-19 & 2-27-19;
- Staff Referral Report dated 3-1-19 from Joanna B. Rogalski, Regional Planner of NVCOG.

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. His client is the contract purchaser of the properties located at 1628, 1648 & 1672 Straits Turnpike owned respectively by William Zarillo, Carl Niedmann and John Gauya. The three (3) parcels were part of six (6) that were rezoned from residential to commercial by this Commission in December of 2017. He submitted the following for the record:

- Copy of Town of Middlebury, Connecticut - Assessment Parcel Map (Parcel #4-10-065) which also shows all three (3) parcels subject to this application as well as the piece on the corner of Park Rd. Ext. (currently owned by Route 63 Middlebury LLC). He added that said corner parcel is included in the application for a text change but is not subject to the purchase agreements;
- Copy of email dated 3-7-19 from Attorney Strub to Attorney McVerry on behalf of Route 63, LLC indicating that his client has no objection to being included in the application process.

Attorney McVerry also stated that currently, the Middlebury Zoning Regulations allow for automotive dealerships as a special exception use in the CA Zone but under Section 31.4 it is limited to Straits Turnpike and 830 feet southerly of the Watertown line. Section 52 has similar language to Section 31, but has a distance of 570 feet from the Watertown line. In light of this, Attorney McVerry attempted to correct the inconsistencies within his application. It was suggested by Chairman Smith that Attorney McVerry forward his initial proposal to Hiram Peck of Plan Three, LLC, which he did do. As a result, Attorney McVerry submitted the following for the record:

- Copy of letter from Hiram Peck to Attorney McVerry dated 12-16-18 which was received prior to Attorney McVerry submitting this formal application which does address Mr. Peck's concerns that were raised in his letter;

- Copy of letter dated 12-31-18 from Attorney McVerry to Hiram Peck which includes the proposed text amendments dated 12-27-18 along with proof of payment of the consultation fee.

Attorney McVerry added that the applicant is looking for an expansion of the area where automobile dealerships are located within the town of Middlebury. BOCH Middlebury Waterbury, LLC is a subsidiary of Subaru of New England out of Norwood, MA which is the exclusive authorized distributor for Subaru vehicles within New England states. BOCH is working with Robert Alvine of Premier Subaru, which is currently located on the Watertown town line, and who also owns the Kia and Subaru dealerships in Branford, CT. The proposed text change would allow the applicant to return for a Special Exception application for the construction of a dealership. In response to the letter from the Regional Planning Agency, his client has retained an attorney in Waterbury to apply with the City of Waterbury for a Zone Change in accordance to their requirements.

Michael Clemmey of Subaru New England submitted and reviewed a four (4) page document titled “About Subaru of New England” with the Commission which provides an overview of Subaru of New England from its inception in 1971 to present.

Robert Alvine submitted and reviewed a four (4) page document titled “Premier Subaru Middlebury” which highlights who they are, why the relocation and past & present projects. He confirmed that the Subaru dealership would be moving from Watertown to Middlebury and although there is no definitive plan for the Watertown building, it would not be used as overflow for the Subaru dealership.

Matthew Robison wanted clarification that the proposed amendment reflects all of Hiram Peck’s comments.

Attorney McVerry confirmed that this current proposal reflects Mr. Peck’s comments.

William Stowell voiced his concerns with respect to the term “new car motor vehicle dealership” only being referenced in Section 31.4.4 A. and absent in other sections. Additionally, he feels the language in the proposed amendments in Sections 31.4.4 A. (1.) & A. (2.) should include a reference to northerly boundaries.

Attorney McVerry agreed to the requested changes (see attached).

Motion: to close the Public Hearing at 7:30 p.m. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

MINUTE APPROVAL

2. Discussion of the Minutes of the Regular Meeting held on February 7, 2019

Motion: to approve the Minutes of the February 7, 2019 Regular Meeting as submitted. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

OLD BUSINESS

3. BOCH Middlebury Waterbury, LLC – Application for Text Amendment of Sections 31 and 52 of the Middlebury Zoning Regulations (Application #2018-12-2)

Chairman Smith read the attached Resolution for the record.

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

NEW BUSINESS

4. 54 Great Hill Rd., LLC/1700 Straits Turnpike – Application for Amendment to Zoning Map (Application #2019-2-1)

Chairman Smith stated that said application requires a Public Hearing.

Motion: to accept the application and schedule a Public Hearing for April 4, 2019. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval

5. Garrett M. Moore, Sr. & Garrett M. Moore, Jr./369 & 255 White Deer Rock Rd. and an adjacent parcel – Application for a Special Exception for an Excavation & Grading Permit pursuant to Section 64 of the Zoning Regulations (Application #2019-2-2)

Attorney Michael McVerry of 35 Porter Avenue, Naugatuck, CT 06770 spoke on behalf of the applicant. Garrett Moore, Sr. is the owner of 369 White Deer Road while Garrett Moore, Jr. owns 255 White Deer Rock Road and an adjacent parcel. The proposal is to clear 369 White Deer Rock Road for a house lot, septic and carriage house. The

applicant is also currently before the Conservation Commission for the blasting of a mound of rock that is currently on the property. The blasted rock will then be transferred to 255 White Deer Rock road to ultimately construct stone walls along the lake side as the applicant has previously done on his other properties.

Motion: to accept the application and schedule a Public Hearing for April 4, 2019. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval

OTHER BUSINESS

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

None

7. Enforcement Report

Curtis Bosco, Z.E.O. confirmed that the members of the Commission received his Enforcement Report. He recently contacted Peter Vileisus on Watertown Road with respect to various work that was done on the property without proper permits being obtained. He instructed Mr. Vileisus to submit a plan in order to become compliant. He also met with a representative of Civil One whose services were obtained by Mr. Vileisus. Mr. Bosco believes that that plan is underway but will follow up with a letter next week.

Chairman Smith reminded Mr. Bosco that he must show how much he has filled and submit payment accordingly. He also requested that Mr. Bosco consult with the town attorney on how to go about removing the collection box as it is in violation of the Regulations.

8. Adjournment

Motion: to adjourn the meeting at 7:47 p.m. Made by Matthew Robison, seconded by William Stowell. 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, C.F.O
Rob Rubbo, Director of Health

MIDDLEBURY ZONING REGULATIONS

PROPOSED AMENDMENT TO:

Article III (Section 31 – CA-40 Zone)

Delete current § 31.4.3 and 31.4.4 Special Exception Uses, and insert the following:

Special Exception Uses:

31.4.3 MOTOR VEHICLE DEALERSHIPS, if located in the areas set forth below, and then only in accordance with such Special Exception and in accordance with Section 52.

31.4.4 Accessory uses customary with and incidental to any aforesaid Special Exception Use. Special Criteria:

- A. A new car motor vehicle dealership (which may include used vehicles) may be located on a lot which has a minimum of 200 feet of frontage on Straits Turnpike (CT Route 63) and
 - 1) Has a northerly boundary of the Watertown-Middlebury Town Line and a southerly boundary no more than 830 feet from the Watertown, CT Town Line; or
 - 2) Has a northerly boundary of Park Road and a southerly boundary no more than 1,030 feet from Park Road/Straits Turnpike intersection and is located in the CA-40 Zone;
- B. For the purpose herein, the term “lot” shall be defined as one or more parcels of property which are contiguous, under unified ownership or control and designed and developed as a coherent group. That portion of the lot to be utilized for new motor vehicle dealership purposes may not extend more than 400 feet easterly or westerly of Straits Turnpike;
- C. A new motor vehicle dealership may maintain outside storage of motor vehicles in excess of the area set forth in § 8 of these Regulations; provided, however that such outside storage for motor vehicles for sale by the new motor vehicle dealership shall not exceed sixty (60%) percent of the area of the lot and provided that the outside storage shall be effectively screened from adjoining properties by fencing, landscaping or other ornamental screening as the Commission may require; some plantings or vegetation may, at the discretion of the Commission be required within the front-yard/street side or side yard area adjacent to Straits Turnpike. In no case shall any sightlines at any intersections be

obstructed by such plantings, vehicles for sale or by display or marketing materials or signage;

- D. For purposes herein, the setback requirements shall not apply to fencing, landscaping or other ornamental screening necessary to screen effectively any motor vehicle outside storage area from any adjoining properties.
- E. For the purposes of this Section, the minimum set-back from CT Route 63 as set forth in § 11 of these Regulations may be reduced from 75 feet to 50 feet at the Commission's discretion and upon a finding that the design of the structure or structures is the most desirable design and layout for the property as shown by designs and factual information presented to the Commission by the Applicant's architect and design team;
- F. Notwithstanding the other regulations for property-line setbacks as required in the CA 40 Zone, the minimum setback for parking/vehicle storage of motor vehicles shall be thirty (30) feet from the adjacent property-line. A landscaped buffer shall be required substantially screen the parking/vehicle storage from the adjacent /abutting property. In the event, the subject parcel(s) shall extend into the City of Waterbury and are proposed for the same motor vehicle dealership use, no set-back shall be required from the Waterbury Town Line, with any buffer required to be as set forth in the Waterbury regulations

PROPOSED AMENDMENT TO:

Article V (Section 52 – Special Exception Zone)

Delete current § 52.10.9 Special Exception, and insert the following:

52.10.9 MOTOR VEHICLE DEALERSHIPS:

See requirements contained in §31.4.4 A through F.

RESOLUTION

Middlebury Planning & Zoning Commission

APPLICATION #2018-12-2: BOCH MIDDLEBURY WATERBURY LLC TEXT AMENDMENT TO AMEND THE ZONING REGULATIONS, SPECIFICALLY §31.4.3, 31.4.4, 52.10.9:

WHEREAS: The Middlebury Planning & Zoning Commission has received a Text Amendment Application to amend the Zoning Regulations, specifically §31.4.3, 31.4.4 & 52.10.9.

WHEREAS: On Thursday, March 7, 2019 at the Shepardson Community Center, 1172 Whittemore Road, Middlebury, CT at 7:00 p.m. a properly noticed Public Hearing was held to receive and consider information from the Public.

WHEREAS: The Planning & Zoning Commission considered the proposed application and all documents submitted by the applicant as well as a Staff Referral Report from the Naugatuck Valley Council of Government Regional Planning Commission.

WHEREAS: The Planning & Zoning Commission finds that the Proposed Text Amendments to 31.4.3, 31.4.4 & 52.10.09 of the Zoning Regulations corrects a conflict in the current regulations and sets clear standards for a New Car Motor Vehicle Dealership in an expanded area subject to Special Exception Approvals.

NOW THEREFORE BE IT RESOLVED that the Middlebury Planning & Zoning Commission APPROVES Application #2018-12-2 with the following conditions:

1. Amended per Public Hearing comments

Dated this 7th day of March 2019
To be effective March 29, 2019



Terry Smith, Chairman
Middlebury Planning & Zoning Commission