



TOWN OF MIDDLEBURY

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

April 4, 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

ALTERNATE MEMBERS ABSENT

Jeffrey Grosberg

ALSO PRESENT

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

CALL TO ORDER

Chairman Smith called the Regular Meeting to order at 7:00 p.m.

ROLL CALL AND DESIGNATION OF ALTERNATES

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

PUBLIC HEARINGS

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

Chairman Smith called the Public Hearing to order at 7:01 p.m. and read the following for the record:

- Legal Notice published in Voices on 3-20-19 & 3-27-19;
- Staff Referral Report dated 3-28-19 from Joanna B. Rogalski, Regional Planner of NVCOG.

Attorney Gail McTaggart of Secor, Cassidy & McPartland, P.C., 41 Church St., P.O. Box 2818, Waterbury, CT 06723 spoke on behalf of the applicant. The property as shown on the survey, which was prepared by Michael Reardon, shows that the piece of property on Straits Turnpike is at the corner of Park Road with a portion already zoned CA-40 with the zoning line split down the middle. The entire area as shown on the Plan of Conservation & Development (POCD) has become commercial having a residential use with the existing substantial traffic not being conducive to residential use. Should the property be completely zoned CA-40, it could be used for commercial purposes that are consistent with the four (4) uses that are on the other intersection. Additionally, the POCD looks at this section as an area that is to be extended to be commercial. In response to the comments from NVCOG, she stated that she did review the Western Hills Golf Course and believes that it has a good buffer distance between these properties. The wetlands on the property are also being honored as part of the development, therefore, creating no issue. The map reveals that the areas next to it consist of LI-80 and CA-40. At the request of this Commission, two (2) attempts were made to contact the neighboring residential property owners and received almost no response. Results of these attempts were included with the application. No one was supportive, most did not respond and one response included questions but did not indicate support of or opposition to the application. Provided with the application, was a letter with the history along with various pages of the POCD relevant to this application. If approved, it will make this a more productive piece of property for the town.

Scott Peterson of 17 Tranquility Road, Middlebury and President of the Middlebury Land Trust wanted to be certain that the applicant and this Commission are aware that the largest preserve (Sperry Preserve/Sperry Pond) of Middlebury Land Trust is directly across the street. He also added that Middlebury Land Trust was never notified and asked this Commission consider asking the applicant to work with the Middlebury Land Trust to ensure that the impact is benign.

Attorney Gail McTaggart acknowledged the location of the preserve and stated that their petition actually includes a paragraph of what is across the street, the Land Trust property and confirmed that they are aware of the new acquisitions that are in place. There will be control over aesthetics on this property once the zone change is done. She assured Mr. Peterson that they have no problem with making sure that what is done compliments what is happening in the area.

Mr. Peterson thanked Attorney McTaggart.

Motion: to close the Public Hearing at 7:14 p.m. Made by William Stowell, seconded by Joseph Drauss. Unanimous Approval.

2. 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)

Chairman Smith called the Public Hearing to order at 7:15 p.m. and read the Legal Notice published in Voices on 3-20-19 & 3-27-19.

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 (7-10 lot 009 per assessor). The proposal is to clear 369 White Deer Rock Road for a house lot, carriage house, septic and driveway. There is a ledge on the property of which the applicant is proposing to take out approximately 4,100 cubic yards of stone fill and relocate to the Tyler Cove parcel owned by Garrett Moore, Jr. The stone will be utilized to construct interior and lakefront stone walls. He confirmed that approval was received from the Conservation Commission.

Ronald Wolff of Wolff Engineering, 39 Sherman Hill Road, Suite C101, Woodbury, CT 06798 stated that the property at 369 White Deer Rock Road has an overall area of 8.8 acres and reviewed the site plan with the Commission. In addition to the approval from the Conservation Commission, approval was also obtained from the Torrington Health District. He confirmed receipt of the engineering review dated March 29, 2019 submitted by John Calabrese, P.E. The proposed hours of operation are 7:00 a.m. – 6:00 p.m., Monday-Saturday. A list of construction equipment to be used and the location of rock crusher were added to the plans. He also confirmed that they concur with the insurance and bond requirements.

Mr. Garrett Moore, Sr. stated that the blasting would start at some point in April, the excavation would begin immediately as blasting occurs and the material taken off site. He anticipates the entire project taking 3-4 weeks.

Scott Peterson of 17 Tranquility Road, Middlebury and President of the Middlebury Land Trust stated that the Middlebury Land Trust adjoins both properties, holds a conservation easement over the Swim Club property and has ownership of some property in the cliffside area. White Deer Rock Land Corporation, which he is also a shareholder of, is also an abutting property owner. He added that neither Middlebury Land Trust nor White Deer Rock Land Corp. were notified of the application, learned of it two days prior to this hearing and have not had a chance to review and determine if their properties or easement could potentially be impacted. He went on to request that this Commission continue the Public Hearing, that MLT be given time to review the application and have an opportunity to speak with Mr. Moore, Sr. As a private citizen, he expressed that the hours of operation for the blasting are very long for those that live in the area and respectfully requested that they start later and end earlier.

Attorney McVerry announced that White Deer Rock Land Corp. was one of the neighboring property owners that were notified. According to the Assessor's records, the only adjacent property owners to either one of these parcels are Deer Walk by the Lake Association, Middlebury Swimming Club, Joseph and Lucille Dinova and White Deer Rock Land Corp. All of the certified return receipts were sent back. In addition, he spoke with Charles Henry, Chairman of White Deer Rock Land Corp. and Joseph Dinova. Mr. Moore is the person of Deer Walk by the Lake and representatives of the Middlebury Swim Club were present during this hearing.

Scott Peterson affirmed that MLT has an easement over Mr. Moore's property to gain access to their property.

Garrett Moore, Sr. confirmed that there will be no more than two (2) trucks running at one time, that they will not be idling and disturbing the neighbors.

Ron Wolff estimated that less than 350 truckloads will be required to move the material.

Erika Carrington voiced her concerns with leaving the Public Hearing open thus forcing a later start date should the application be approved.

Chairman Smith agreed that it would be imperative that the work be completed prior to the Swim Club opening.

Attorney McVerry added that the Regulations call for adjacent property owners being notified, not easement holders.

Garrett Moore, Sr. confirmed that he would be happy to speak with members of the MLT.

Motion: to close the Public Hearing at 7:31 p.m. Made by Erika Carrington, seconded by Matthew Robison. Unanimous Approval.

MINUTE APPROVAL

3. Discussion of the Minutes of the Regular Meeting held on March , 2019

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

OLD BUSINESS

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

Motion: to approve the application as it does comply with the Plan of Conservation & Development, effective April 26, 2019. Made by William Stowell, seconded by Erika Carrington. 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)

Matthew Robison wanted clarification with respect to the applicant's request for a waiver of the requirements of Sections 52.3.1 through 52.3.16.

Chairman Smith went on to review the waiver requirements in said sections. He also added that the Public Hearing is for Excavation & Grading only.

Matthew Robison added that there was no explanation for the request and acknowledged that it should have been mentioned during the Public Hearing.

Chairman Smith read the attached Resolution for the record.

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

NEW BUSINESS

None

OTHER BUSINESS

6. Robert LaFlamme – Informal discussion regarding property on Straits Turnpike at Park Road Extension

Robert LaFlamme of 218 Kuhne Road, Southbury, CT 06488 stated that he and his daughter have an option to purchase the corner property that is directly opposite of the property that they currently own (Middlebury Edge). The property is 12.3 acres in size and they are hoping to develop the property which has a large track of wetlands on it.

Curt Jones, P.E., LEED AP of Civil 1, 43 Sherman Hill Road, Suite D-101, Woodbury, CT 06798 reviewed the map with the Commission. It is located in the northwest quadrant of the intersection of Route 63 and Park Road Extension. A zone line runs through the property which transitions from a CA-40 to an LI-80 zone. The only usable portion is in the front of the property along Route 63. As Attorney Gail McTaggart mentioned earlier this evening, he agreed that it would make good planning sense to have the zoning lines run with the property line. They too believe that is in conformance with the POCD. They anticipate constructing a building 20,000 to 25,000 square feet in size and wanted some informal feedback from this Commission as to the merits or the possibility of evening up the zone lines.

Chairman Smith stated that it seems as though an LI-80 access was left for Route 63.

Curt Jones, P.E., LEED AP added that all of the water flows away from the site that would be of interest to Mr. Peterson.

Chairman Smith stated that they would need to get their application in by April 10, 2019 in order to schedule a Public Hearing for next month.

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

None

8. Enforcement Report

Curtis Bosco, Z.E.O. explained that a new buyer came in for Tribury Tennis and inquired

about adding outdoor clay tennis courts. The gentleman is working with Curt Smith. With respect to GIDD, someone inquired about the property that was approved for the grocery store on Southford Road and is currently on the market.

Chairman Smith questioned Mr. Bosco about the pool at 115 Richardson Drive and if it is less than 20% of the backyard.

Curtis Bosco, Z.E.O. stated that he did not have the full file with him but confirmed that he followed the guidelines when issuing the Certificate of Zoning Compliance.

Chairman Smith went on to question Mr. Bosco about an in-ground pool on St. Joseph Ave.

Curtis Bosco, Z.E.O. acknowledged that rear and side setbacks must be met in order to receive a Certificate of Zoning Compliance. He went on to update this Commission about the status of the clothing bin still on Middlebury Road.

Chairman Smith clarified that it must be taken out of the setback.

9. Adjournment

Motion: to adjourn the meeting at 7:57 p.m. Made by Joseph Drauss, seconded by Matthew Robison. 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

SITE PLAN RESOLUTION

Upon motion by Commissioner Stowell, seconded by Commissioner Drauss, it was voted unanimously to approve the application of Garrett Moore Sr. & Jr. for an Excavation and Grading SITE PLAN located on 369 White Deer Rock Road as shown on Record Subdivision Map entitled Site Plan and Subsurface Sewage Disposal Plan and prepared by Wolff Engineering and dated February 2, 2019 Rev. February 19, 2019.

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 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 Officer;
- e) Recommendations stated in Calabrese Engineering Review dated March 29, 2019;
- f) No blasting to take place before 8:00 a.m.

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 4, 2019