



TOWN OF MIDDLEBURY

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

March 4, 2021 REGULAR MEETING MINUTES

Via Zoom Meeting #848-8185-5835

REGULAR MEMBERS PRESENT

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

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, Carrington, Robison and Drauss as present. Alternate Member Grosberg was absent.

PUBLIC HEARINGS

1. **The Metro Realty Group, Ltd./1685 Straits Turnpike-Application for a Special Exception pursuant to Sections 31.1 & 52 (Application #2020-12-1)**
2. **The Metro Realty Group, Ltd./1685 Straits Turnpike-Application for a Special Exception for an Excavation & Grading Permit pursuant to Section 64 (Application #2021-1-1)**

Chairman Smith stated that both Public Hearings would run concurrently and went on to read the Legal Notice published in Voices on 2-17-2021 & 2-24-2021 for the record.

Kyle Richards with The Metro Realty Group stated that possibility of a canopy entrance was considered. While it is their preference to keep the canopies off of the buildings, they proposed the following modifications to the site plan:

- Build a common internal lobby in each building which will be heated and air conditioned with two (2) waiting areas with benches along the glass by the front door providing clear sight lines for when their ride arrives. He displayed a photo depicting an identical setup from one of their other buildings for consideration.
- Pull the drop-off point closed to the buildings, 15' from the front entrance. There will be a flush condition where the concrete meets the sidewalk and they plan to install a heating elements in the sidewalk at the mouth of the entrance to prevent ice and slippery conditions.

He went on to add that their concerns with the requested canopy are aesthetics and operational. The buildings will sit approximately 6' below the road level and will create an unpleasant visual detail. They also prefer to avoid the functional challenges with placing the canopy columns near the travel way at the drop-off point.

Chairman Smith extended his appreciation in their efforts to meet the Commission's concerns and voiced is approval of their modifications.

Joseph Drauss questioned if the lobby will have restrooms.

Kyle Richards replied that they will unless the tenant requests to have the bathrooms in their waiting room and not the lobby.

Joseph Drauss voiced his concerns with respect to four (4) handicap parking spots for each building as he does not feel the number is adequate.

Thomas Daly, P.E. of Milone & McBroom, which is now part of SLR Consulting Ltd., confirmed that they could increase the number of handicap spaces in front of the buildings by eliminating some of the greenspace. Alternatively, he proposed that they create dedicated patient parking near the front doors and extend the flush sidewalk condition in front of the spaces.

Kyle Richards confirmed that dedicated patient parking is definitely something they would review.

Chairman Smith acknowledged that he likes the idea of patient only parking.

Joseph Drauss also voiced his appreciation and approval.

Chairman Smith added that, per the regulations, it will be required that the dumpster be enclosed with a fence and a gate and that it should be screened from view.

Thomas Daly, P.E. replied that they will comply. He then went on to review the Excavation & Grading presentation with the Commission. The site will result in a need for imported fill consisting of native material. The cut will be approximately 3,000 cubic yards and with the fill area estimated at 14,000 cubic yards, the net out is expected to be approximately 11,500 cubic yards. Around 6,900 cubic yards have already been brought into the site, the Subaru dealership had an export of their site so they brought it to this site. Therefore, they anticipate an additional 4,600 cubic yards of remaining import. A source has yet to be determined but once identified, they will notify town staff. He acknowledged receipt of the engineering review submitted by John Calabrese, P.E., dated 2-24-2021. The hours of construction will be Monday-Saturday from 7:00am – 5:00pm. He noted that Saturday will be on a limited basis and will be dependent on weather and deadlines. The overall construction period will take approximately 14-16 months. Earthmoving equipment will consist of two (2) excavators, bulldozer, roller, combination loader and backhoe as well as a street sweeper and water truck as needed. They do not anticipate any ledge removal. Compliance of insurance and bond requirements are understood.

Curtis Bosco, Z.E.O. commented that this application was referred to the City of Waterbury and that he received an email response, dated 1-27-2021 from Clifford C. Brammer III, Assistant City Planner, City of Waterbury Planning, Zoning & Inland Wetlands. In said email, Mr. Brammer questioned if they will be using any of Waterbury's secondary roadways.

Thomas Daly, P.E. again stated that once a source is determined, they will notify town staff. He also added that if blasting is required, they understand that a permit is required

through the Fire Marshal and they would need to look at the Regulations. He feels that site is too small and they would probably remove the rock through mechanical means.

Motion: to close both Public Hearings at 7:31 p.m. Made by Joseph Drauss, seconded by Erika Carrington. Unanimous Approval.

MINUTE APPROVAL

3. Discussion of the Minutes of the Regular Meeting held on February 4, 2021

Motion: to approve the minutes as submitted. Made by Erika Carrington, seconded by William Stowell. Matthew Robison abstained from voting as he was not present at the meeting and did not have the opportunity to review the recording. Unanimous Approval.

OLD BUSINESS

4. The Metro Realty Group, Ltd./1685 Straits Turnpike-Application for a Special Exception pursuant to Sections 31.1 & 52 (Application #2020-12-1)

Motion: to approve the application per the attached Resolution. Made by William Stowell, seconded by Joseph Drauss. Matthew Robison abstained from voting as he was not present at the meeting and did not have the opportunity to review the recording. Unanimous Approval.

5. The Metro Realty Group, Ltd./1685 Straits Turnpike-Application for a Special Exception for an Excavation & Grading Permit pursuant to Section 64 (Application #2021-1-1)

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

NEW BUSINESS

None

OTHER BUSINESS

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

None

7. Discussion concerning the outdoor dining regulations and the upcoming season during the Pandemic.

Chairman Smith requested that the members of the Commission take some time to think about the Outdoor Dining Regulations. While he believes the governor's executive order will carry them through this outdoor dining season, at some point it will return to normal and a lot of the restaurants are not going to meet the Regulations as they are written. He shared that some are looking to invest a considerable amount of money in expanding. He expects to discuss the issue further in the summer.

8. Informal discussion regarding Regan/Nutmeg Road development

Emily Jones, P.E. with Civil 1 Engineering in Woodbury spoke on behalf of Bob & mark Michaud of Michaud Development Group. She stated that she worked on this project many years ago. While an application has not been submitted, they wanted to have a discussion prior to doing so. She reviewed the previously approved plans with the Commission. The property consists of 3 adjoining lots, south of Route 64, and was subject to a zone change to a senior residential district. The property is essentially split into two natural groupings. One lot (Parcel A) is accessed from Regan Road and Nutmeg Road while the other (Parcel B) is accessed from Stevens Road and Edgar Road. The site is undeveloped, mostly wooded with a large wetland in the center of the property. Phase 1 consists of 10 units along with an additional 14 units on Phase 2. There was also an alternative count of 29 units by way of constructing duplexes for some of the buildings. Both phases were to be served by private roads that ended in cul-de-sacs and each lot having a detention basin. This was approved prior to the stormwater quality manual issuance in 2004 and the wetland setback was 50' at that time but is now 100'. The setback for side and rear yards was 20' and is now 50'. For the residential area it remains at 20' from the commercial area. There is still a 100' setback from neighboring structures on the site. The majority of the rock outcroppings are located on Parcel B/Phase 2. Sanitary sewer is accessible throughout the site and there is an existing sanitary system that runs down Stevens Road and through the wetland area. In 2004, access to public water did not exist. To date, she believes Middlebury Commons is on a well. The proposal at that time was to bring water down Regan Road, Nutmeg Road, Stevens Road to serve the property. She went on to review conceptual plans which would include single family units with a few layout changes to meet updated Regulations and make some architectural improvements. Access points would remain the same. Since the previously approval, water has been added to Stevens Road and they are now prosing to serve both lots from said water service and plan to bring the water line through the wetland area. On Parcel A, a change was made to the road configuration. Instead of the cul-de-sac, they are proposing to loop the road around to bring it back down to Nutmeg Road for better

emergency access. Doing so would allow for an increase in the number of units. The units would be narrower but deeper. Parcel A would then consist of 13 units and 16 units on Parcel B bringing the total to 29. The area of disturbance would remain similar and would require rock removal that was previously approved but will be looking for guidance.

Attorney Gail McTaggart of Secor, Cassidy & McPartland, P.C. has also been working with Michaud Development Group with respect to their ideas. She visited the Land Use Office in order to understand the history and was provided a copy of the settlement agreement of 2006. She learned that there were 2 previous applications, both of which were denied, and the second application was categorized as affordable. Both applications were appealed and the appeal was eventually settled. The settlement was due to the fact that it then had public water, and WPCA approval for 58 bedrooms. The commission also approved the plan as being a change of zone, so the entire thing was in a senior residential district, and also as the final development plan. The approval for 24 units also contained provisions that indicated that all of the other approvals that were necessary (Conservation Commission, WPCA & CT Water Co.) were in place in order to accomplish this. She went on to state that if her clients cannot get 29 units on the development, that it will not work economically. However, they are willing to provide more upscale architecture and slimmer units that are in character with the town. She acknowledged that this Commission has the power to modify the development and that there is no need to return to court. She questioned if this matter can be picked up as it has been rezoned and never been revoked, and maps are filed on the land records both in terms of the zoning amendment as well as the final plans.

Chairman Smith questioned if the water line will be accessible to the existing condos at Nutmeg Village.

Emily Jones, P.E. replied that it is something that they should take into consideration as the waterline is directly across from their driveway entrance and believes that CT Water would prefer to size the pipe so they could tie in.

Chairman Smith added that, if applicable, he would like to make that a requirement. He then asked if this plan meets the Regulations as they are written now.

Emily Jones confirmed that from her understanding, they do.

Chairman Smith stated that they are limited by the WPCA to the 58 bedrooms but believes it can be done as a site plan modification. He went on to ask for input from the members of the Commission.

William Stowell requested time to thoroughly review what is being presented.

Matthew Robison agreed with William Stowell.

Chairman Smith questioned if there has been discussion on making some of them affordable.

Attorney Gail McTaggart confirmed that there has been. Although, the approval that was done through the settlement specifically did not include an affordability component.

Chairman Smith acknowledged that he would like to see some offered, as affordable senior housing is lacking in town. He suggested that further discussion take place next month.

William Stowell requested actual plans to review.

Joseph Drauss requested more details.

Chairman Smith suggested a set of reduced drawings with a couple of pages for each member.

Curtis Bosco, Z.E.O. stated that it was brought to his and John Calabrese's attention by Attorney Gail McTaggart, the processing of the material that they are removing requires a 300' buffer area and they are not able to do that.

Chairman Smith confirmed that they will take that into consideration.

Attorney Gail McTaggart added that the rock crushing was also required by the settlement plan. Whether that plan assumed that ability to do that through the court approval is something she is not sure of.

Emily Jones, P.E. stated that she will make the requested materials available for this Commission's review.

Joseph Drauss also requested a brief written history for the subject property.

9. Enforcement Report

Chairman Smith informed the rest of the Commission that he expects to not be able to take part in next month's meeting.

William Stowell confirmed that he wanted to review the proposed signage for Uncle Willie's BBQ which is expected to go where Army Stone Pizza is.

Curtis Bosco, Z.E.O. stated that he plans to call the sign company to tell them to make an adjustment.

Chairman Smith requested that Curtis Bosco, Z.E.O. forward CT State Statute 8-30j to all members.

10. Adjournment

Motion: to adjourn the meeting at 7:15 p.m. Made by Joseph Drauss seconded by William Stowell. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Brigitte Bessette, 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
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 **Metro Realty Group, Ltd.** for a **Medical Office** SITE PLAN located on **1685 Straits Turnpike**, and as shown on Record Subdivision Map entitled **Proposed Medical Office Building Prepared for Ltd. – 10 Pages** and prepared by **Milone & MacBroom** and dated **October 26, 2020, Revised to January 27, 2021.**

The Commission specifically finds The Application:

1. is in compliance with the requirements of the Panning & Zoning Regulations Sections 51.3.1 & 52;

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 Officer;
- e) Requirements of Mr. Calabrese's Engineering letter dated February 1, 2021;
- f) Patient only parking in front of building;
- g) Dumpsters to be screened.

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.

March 4, 2021

RESOLUTION

Upon motion by Commissioner **Stowell**, seconded by Commissioner **Carrington**, it was voted to approve the application of **Metro Realty Group, Ltd.** for an **Excavation & Grading Special Exception** located on **1685 Straits Turnpike**, and as shown on Record Subdivision Map entitled **Proposed Medical Office Building 1685 Straits Turnpike – 10 Pages** and prepared by **Milone & MacBroom** and dated **October 26, 2020, Revised to January 27, 2021.**

The Commission specifically finds The Application:

2. is in compliance with the requirements of the Panning & Zoning Regulation Section 64;

The Application is subject to the following conditions/modifications:

- h) Providing bond satisfactory to the Commission and the Board of Selectmen;
- i) Posting of a landscape bond as determined by the Board of Selectmen;
- j) Signing of the Map by the First Selectman;
- k) Signing of the Map by the Conservation Officer;
- l) Requirements of Mr. Calabrese's Engineering letter dated February 24, 2021;
- m) Truck route to be approved by Z.E.O.

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.

March 4, 2021