



# **TOWN OF MIDDLEBURY**

## *Zoning Board of Appeals*

### **MINUTES**

### **ZONING BOARD OF APPEALS REGULAR MEETING**

### **Wednesday, November 2, 2022 – 7:30 p.m.**

### **Shepardson Community Center**

### **Room 26**

**Present:** Linda Herrmann  
Candice Graziano  
Robert Marages  
Bryan Ferrucci, Alternate

**Also Present:** Curt Bosco, ZEO  
Rachel Primus, Recording Clerk

**Excused**

**Absent:** Ray Caruso, Alternate  
Joe Mancini  
Brian Proulx

#### **Call to Order with the Pledge of Allegiance**

The meeting was called to order by Linda Herrmann at 7:30 P.M. She appointed Bryan Ferrucci as a regular voting member.

#### **Approval of January 5, 2022 Regular Meeting Minutes**

Tabled until next month's meeting.

#### **Public Hearing:**

**Application #3195** – Paul Szymanski, PE on behalf of Meadow Realty, LLC concerning property located at 1000 Southford Road, Middlebury CT. Applicant is seeking a Variance from Section 67.1 of the Middlebury Zoning Regulations regarding a gasoline filling station requirement for a 500 foot minimum distance from a public school.

Linda Herrmann opened the Public Hearing at 7:30 PM. She read the public notice into the record. The board members reviewed the plans and it was determined the property abuts both schools. Paul Szymanski handed in the certified mailings. He noted the property is located on the opposite side of the road from the old Trucking Museum. He explained that prior to 2010 the Zoning Commission created the GIGG zone along Southford Road. The Zoning Commission is in favor of allowing additional uses in that area. The necessary approvals from Inland Wetlands and Zoning were received in 2010. He said the previous owner of the property was Mr. Desantos, and the lot size was smaller. The current owner is coming back with the same plans. The zone requires a minimum of 500 ft from any school and they are seeking relief from 322 ft. Paul Szymanski said the hardship is that this is the only property approved from the Zoning Commission for this plan. Candice Graziano said she doesn't feel that prior approval is considered a hardship. Paul Szymanski said this is the only property that has received approvals

for this use. Curt Bosco said that the plan had received prior approvals. He said that the Planning and Zoning Commission is on record allowing and encouraging this type of business, however it is impossible with this regulation. He said that the Planning and Zoning Commission is considering changing the regulations for that zone, they have 65 days to do so. Linda Hermann asked if the appeal is approved does it stay with the land or the applicant. Curt Bosco answered it stays with the life of the land. Paul Szymanski noted that the land owner's intent is to build the gas station. He showed the board the site development plan that was approved 10 years ago. After the additional land was acquired there was a proposed grocery store, but due to wetland disturbance they couldn't construct both. It was determined the site could only accommodate one structure. The new applicant received Wetlands approval last week. Curt Bosco said he did not receive any correspondences regarding this application. He said the abutting property owners were notified. Candice Graziano asked if the Zoning Commission is going to be amending the regulations. Curt Bosco answered they are considering modifying the regulations from 500ft to 300ft. Candice Graziano said she doesn't see what the hardship is. Paul Szymanski said it is the unique shape of the lot and of Long Meadow School's property which directly affect their lot.

**Public Comment:**

Hussnain Gondal, 14 Independence Circle, Middlebury CT who is the adjacent property owner to this lot. He is one of the owners of a business under the name Road Runners, which is also a gas station. He said that this regulation affects most of the properties along the road. He noted that Meadow Realty LLC has a contract with the Mobil gas station in Southbury. There is no plan on constructing a gas station because he wants to make sure there is no competition for his gas station. He has provided information to the Planning and Zoning Board. Hussnain Gondal said there is no hardship. He owns 1082 Southford Road property. He said that most of the parcels in this zone are affected by the same section of the zoning regulations. He said that the Planning and Zoning Commission should act on this application tomorrow, the public hearing was closed last month. If they decide to modify the zoning regulations to 350ft it will only affect one parcel.

Curt Bosco said the Planning Zonning commission determined it was ok to have a gas station but the regulations contradict with the 500ft restriction. He said that they use the ZBA as a tool so as to not to make a town wide change. The ZBA Commission can make a decision on an individual basis. Candice Graziano said she does not see a uniqueness on the hardship for the lot. A discussion ensued regarding the continuation of the public hearing.

**VOTED:** Unanimously on a motion by Bryan Ferrucci and seconded by Candice Graziano to **CONTINUE** to the Public hearing to the December 7, 2022 meeting.

**Old Business**

None

**New Business**

None

**Correspondence**

None

**Adjournment**

**VOTED:** Unanimously on a motion by Candice Graziano and seconded by Robert Marages to **ADJOURN** the meeting at 8:07 P.M.

These minutes are submitted subject to approval.

Respectfully submitted,

Rachel Primus

Recording Clerk

ZBA Members

CC: Town Clerk, Z.E.O.