



TOWN OF MIDDLEBURY

Planning & Zoning Commission

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TOWN CLERK'S OFFICE

MIDDLEBURY, CT

Marjorie Lukowski
TOWN CLERK

Meeting of the Planning & Zoning Commission

February 1, 2024

Shepardson Community Center – Room 26

REGULAR MEETING MINUTES

Regular Members Present

Terry Smith, Chairman

Erika Carrington

Matthew Robison

Regular Members Absent

William Stowell

Alternate Members Present

Paul Anderson

Gerald Lukowski

Frank Mirovsky

Also Present

John Calabrese, P.E.

Curtis Bosco, Zoning Enforcement Officer

Call to Order

The Chairman called the meeting to order at 7:00 p.m.

At this time the Chairman stated that

Roll Call and Designation of Alternate Members

The Chairman appointed alternate member Gerald Lukowski to fill the vacancy for the evening and alternate member Frank Mirovsky to vote in place of regular member William Stowell.

Public Hearings

**Lawrence Janesky/Artillery Road – Application for a subdivision modification
(Application #23-63Z) Continued**

The Chairman appointed alternate member Gerald Lukowski to fill the vacancy for the evening and alternate member Frank Mirovsky to vote in place of regular member William Stowell.

Mr. Larry Janesky stated that this project was discussed at the January 24, 2024 meeting of the Land Preservation & Open Space Commission (LPOS), (P&Z deferred this project to LPOS for their opinion), which he was unable to attend, and that Commission vehemently opposed the project for reasons Mr. Janeski feels are personal and untrue. The members of the LPOS are concerned that the deed restriction will be lifted at some point for his own personal interest.

Mr. Janesky requested the Planning and Zoning Commission give him opportunity to attend the next meeting of the LPOS to present his side of how the project will be completed.

Mr. Janesky said he was working with the Middlebury Historical Society to create a monument dedicated to General Rochambeau. Mr. Janesky added that Rochambeau camped on his fields, that there was a dirt road there at one time but it is now overgrown and the monument is deep in the woods. Mr. Janesky is proposing the modification of a subdivision in Middlebury which involves the sale of a historical parcel of land and the development of the Rochambeau Memorial, at no cost to the public or the Town of Middlebury. The proposal includes selling a 5.7-acre town-owned open space parcel to Mr. Janesky who is the adjoining landowner. Mr. Janesky submitted the attached executive summary regarding the Rochambeau memorial project.

Mr. Janesky said that he spoke with the First Selectman about purchasing the land behind his property so that the monument could be built there. Per Mr. Janesky, the First Selectman is in agreement with this project. Mr. Janesky said it is not his intention to subdivide any of the property, and the language in the deed states that some of the property be given to the Town and that property cannot be built upon and must remain as open space. Mr. Janesky said that he would permit people to walk up and see the old monument. The deed would prohibit a racing track, and the zoning regulations would also prohibit a race track installation.

Mr. Janesky again added that this project is at no cost to the public, and the land will still be accessible to the public. Mr. Janesky feels that if the Commission votes no, they are doing a disservice to the Town. If it is approved, he will follow through with the Historical Society and continue to work with that group.

The Chairman opened the discussion to members of the public.

Alice DeMartino read a statement (attached) regarding the January 24, 2024 meeting of the LPOS. At that meeting, Attorney D'Angelo explained that if the land is sold it would be protected as open space. Various members of the LPOS expressed their dismay with Mr. Janesky purchasing the land because of his financial status and their fear that Mr. Janesky would use the property for his own personal use. Ms. DeMartino added that the minutes that were filed today for Land Preservation did not include any of this discussion.

Edwin Durgy (Kelley Road) feels that the historical site is undeveloped and has a marker that is also historical. The land is open to the public for access and that the idea of building the monument is fine.

Dr. Rafford, President of Middlebury Historical Society asked that the Commission not take the vote taken by the LPOS seriously to make their decision. He feels that it was a rushed motion without all of the facts being explained. He asked that they are given another opportunity to meet with the LPOS Commission again (Mr. Janesky will be available to attend the Commission's next meeting).

Dr. Rafford added that the historical worth of the land, the five acres that are now owned by the Town has always been in private hands. The Town has not participated in anyway to increase the historical worth of the land. Most of the land is already owned by private individuals. Dr. Rafford sees no downside to this project and implored the Commission to give them another chance to discuss the project with the LPOS.

The Chairman opened the discussion to members of the Commission.

Paul Anderson stated that the deed restriction in place prohibits construction and that restriction will be passed on.

Frank Mirovsky feels that the Town cannot lose with this project. He also disclosed that he is a member of the Middlebury Historical Society and added that the State went on Mr. Janesky's property and recovered items from General Rochambeau and it took him years to get the items back.

Erika Carrington said that the issue for the hearing is about opening the subdivision.

At this time, the Chairman closed the public hearing.

Erika Carrington MOTIONED to close the public hearing at 7:36 p.m.; SECONDED by Gerald Lukowski. Unanimous approval.

Parkland Estates Homeowners Association, Inc./Park Road – Application for a subdivision modification (Application #23-63Z) Continued

The Chairman appointed alternate member Gerald Lukowski to fill the vacancy for the

evening and alternate member Frank Mirovsky to vote in place of regular member William Stowell.

Attorney Franklin Pilicy presented on behalf of Parkland Estates and explained that the hearing was continued for purposes of having the Land Preservation & Open Space Commission (LPOS) review the matter at their January 24, 2024 meeting. The LPOS sent correspondence approving the subdivision modification (attached)

The HOA requested that an to allow the Town of Middlebury to become the owner of the open space.

The Chairman opened the discussion to members of the public. There was none.

The Chairman opened the discussion to members of the Commission. There was none.

At this time, the Chairman closed the public hearing.

Matt Robison MOTIONED to close the public hearing at 7:40 p.m.; SECONDED by Gerald Lukowski. Unanimous approval. The motion passes.

Craig Laaman/Wiggles Pet Resort – 1082 Southford Road – Application for Special Exception for Excavation and Grading Section 64 (Application #24-1Z)

The Chairman read aloud the attached legal notice.

Lee Jones, Engineer with Civil One stated that they came before the Commission last month and are now requesting an extension because The Town of Southbury needs 35 days to review their application. They are requesting a continuation to March 7, 2024 at 7:00 p.m.

At this time, the Chairman recessed the public hearing.

Erika Carrington MOTIONED to continue the hearing to March 7, 2024; SECONDED by Matt Robison. Unanimous approval.

Discussion of the Minutes of the Regular Meeting held on December 7, 2023

Erika Carrington MOTIONED to approve the minutes of the regular meeting held on December 7, 2023; SECONDED by Gerald Lukowski. Unanimous approval.

Discussion of the Minutes of the Regular Meeting held on January 4, 2024

Matt Robison MOTIONED to approve the minutes of the regular meeting held on January 4, 2024; SECONDED by Erika Carrington. Unanimous approval.

Old Business

Parkland Estates Homeowners Association, Inc./Park Road – Application for a subdivision modification (Application #23-66Z)

Erika Carrington MOTIONED to approve the application for a subdivision modification located on Park Road; SECONDED by Matt Robison. Unanimous approval.

At this time the Chairman read aloud the attached Resolution.

Craig Laaman/Wiggles Pet Resort – 1082 Southford Road – Application for Special Exception for Excavation and Grading Section 64 (Application #24-1Z)

Emily Jones, Engineer, Civil One presented a letter that was submitted in January for excavation and grading.

The proposed property is 2.14 records located near I-84 exit 16. It is a clear piece of property that slopes down to Eight Mile Brook. There is public sewer and water. The purpose is for a 13,120 square foot commercial building for canine services.

Ms. Jones presented a plan that showed where the site would be located. On either side of the building there are fenced in and covered play areas for the dogs. There are parking calculations on the plan and a storm water infiltration treatment included.

Ms. Jones said they received a review memo from John Calabrese, Town Engineer. Mrs. Jones presented Civil One's response (attached). Use of the design ratio was based on the owner's statement of use and by the floor plan presented by the architects. There are nine employees, an additional three parking spaces for the office space; and for forty unique families using the facility on average. The total required is 44; they provided 52 parking spaces.

Elevation in grading adjustment. Raised the building about 15 inches to give the site more balance and visibility from Southford Road. There is some regrading on the site, which is why they need the excavation unit.

The 30 light locations have been provided in the plan.

Ms. Jones believes that applicant will be able to provide a sample of what the sign will look like at the next meeting.

Ms. Jones added that have received review and approval from Conservation Commission, there was some confusion on whether the WPCA acted on capacity, but it was approved by them at the November 2023 meeting. They did make some adjustments to the pump; they are putting in a holding chamber and they are working with Mike Angieri. Wiggles has received a positive referral from architectural review board, fire marshal (the materials that they are using does not permit a sprinkler, but the hydrant is located across the street). All lighting has been changed to 3K.

The building code does not require a sprinkler system. There are firewalls within the building.

Frank Mirovsky asked if there was a fire prevention system. Mrs. Jones will discuss with the owners.

Gerald Lukowski asked if there is additional fencing. Ms. Jones stated that there is no gate at 188; however, the fence around the property is solid.

Ms. Jones submitted a letter for an extension so they can submit their site plan.

The Chairman asked that Hiram Peck's request be reviewed by Civil One.

Erika Carrington MOTIONED to extend the site plan approval to March 2, 2024; SECONDED by Frank Mirovsky. Unanimous approval.

New Business

Andy Robinson/13West Lake Road #D15 – Demolition and Rebuild. Site Plan Review (Application #23-108Z)

Andy Robinson said that site plan was approved by the Wetlands Commission on Tuesday, January 30, 2024 and they have been working with the Zoning Enforcement Officer. Hiram Peck has to review the plans. Mr. Robinson presented the house plans. And said that the HOA has restrictions on what can be done. The president of the HOA signed off on the plans. The Chairman said that they will wait for Hiram Peck's review.

They have a community well and community sewer and they have all of the adjacent property information they need.

The current corner of the house is 71 feet and the new corner will be 65 feet. The HOA knows this and signed off on this. It is far away from the lake.

The Commission will make a decision on March 7, 2024 pending Mr. Peck's review.

Mr. Bosco said that two letters came into the Zoning Office requesting extensions (attached) The Chairman said that they will be on the March 2, 2024 agenda.

Other Business

Gregory Barnes – Informal discussion on activities in vineyards

Gregory Barnes was not present.

Business added to the agenda for 2/3 Vote of Commission

None.

Enforcement Report

Mr. Bosco said that State statutes require that when an application for a Special Permit (Exception) are within 500 feet of another municipality, notice must be given to the neighboring municipality. The contiguous town has 35 days to make comment. The City of Waterbury has received an application for a special permit on Turnpike Drive, Waterbury. Turnpike drive spans from Straits Turnpike into Waterbury. The only way to access the Waterbury portion of the road is from Middlebury.

Mr. Bosco added that the Town of Middlebury considered the cannabis laws and held public hearings. Both the Commission and the Board of selectmen have decided to opt out of any type of cannabis establishments in Middlebury because of their concern with people exiting the highway and traversing roads within the Town of Middlebury.

Mr. Bosco explained that the thoroughfares in Watertown and Middlebury (Straits Turnpike and Park Road) will be utilized if the facility is built. The Commission has thirty-five days to respond to the City of Waterbury. The Zoning Officer asked the Commission for their direction. Town Counsel can draft a letter in opposition. The Commission authorized Town Council and the Zoning Officer to respond.

Matt Robison asked if there are any other cannabis establishments in the City of Waterbury.

Adjournment

Erika Carrington MOTIONED to adjourn the meeting at 8:25 p.m. SECONDED by Matt Robison. Unanimous approval.

These minutes are submitted subject to approval.

Respectfully submitted,

Barbara J. Whitaker

Barbara J. Whitaker
Recording Clerk

cc: Brigitte Bessette, Town Clerk
Members of the Planning & Zoning Commission
Paul Bowler, Chairman – Conservation Commission
Mark Lubus, Building Official
Curtis Bosco, Zoning Enforcement Officer
Ken Long, Chairman – Zoning Board of Appeals
Attorney Dana D'Angelo
Robert Rubbo, Director of Health – Torrington Health District

SUBDIVISION/RESUBDIVISION RESOLUTION

Upon motion by Commissioner Carrington, seconded by Commissioner Robison, it was voted on January 4, 2024 to approve the application of Parkland Estates for a Modification of Subdivision approval dated March 6, 2008 located on Park Road, Middlebury, Connecticut, wherein the Commission required as a condition of subdivision approval the “Establishment of a home-owners association to own and maintain the designated open space within the subdivision, with the review and approval of the Town Attorney of all relevant documents.” Said requirement to be modified as follows “The home-owners association to transfer title to the open space to the Town of Middlebury, with the review and approval of the Town Attorney of all relevant documents.” Said Open space is shown on Record Subdivision Map entitled “Record Subdivision Map, Parkland Estates –Section Four’ prepared for Edward I. Bushka, et al, Park Road, Middlebury, CT and prepared by Meyers Associates P.C. and dated July 3, 2002, revised through August 25, 2023.” All is subject to the following conditions:

- a) Signing of the Map by the Planning & Zoning Commission Chairman;
- b) Signing of the Map by the Town Health Officer;
- c) Signing of the Map by the First Selectman;
- d) Signing of the Map by the Conservation Commission Chairman;
- e) Compliance with Section 3.9 & 3.10 of the Subdivision Regulations for the Town of Middlebury.

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.