

**MIDDLEFIELD PLANNING & ZONING COMMISSION**  
**405 Main Street**  
**Middlefield, Connecticut 06455**

Minutes of the December 17, 2018 Regular Meeting

Erin Howard called the meeting to order at 6:30 pm.

Attendance:

Members		Alternates	
X	Boyle, Kevin	A	Crocco, Mike
X	Brown, Jay	X	Hinsch, Ken
X	Ekblade, Eric	X	Wojas, Jan
X	Howard, Erin	Others	
		X	Colegrove, Geoff
		A	Curtis, Brian
		X	Russ, Jerry
		A	Bailey, Ed, <i>ex officio member</i>

A=Absent

X=Present

Jan Wojas was seated on the Commission. Erin Howard announced that Scott Wheeler has resigned which leaves the Commission without a secretary.

Public Comment

None.

8-24 Review for Acceptance of Ross Farms Estates Road as a Town Road

Geoff Colegrove had sent a memo out indicating the statutory requirements and had included a letter from Brian Curtis that indicated that the project is complete and that he recommended the release of the bond. The Board of Selectmen cannot accept the road without this review.

Kevin Boyle asked if Jerry Russ could see any reason not to release the bond and Mr. Russ commented that the only thing he could see was the diameter of a few of the trees, but both he and the Inland Wetlands enforcement officer are satisfied with all of the improvements. Chief Peter Tyc commented that the Fire Department is also satisfied with all of the improvements.

Kevin Boyle made a motion, seconded by Jay Brown, to recommend the Town of Middlefield accept Ross Farms Road as a town highway and to release the remaining performance bond (\$32,000). Motion carried unanimously.

Powder Ridge Mountain Park & Resort LLC. Application for Special Permit or Special Exception; Add Short-Term Event-Based Camping; 99 Powder Hill Road

Erin Howard explained that the Commission has reached their deadline for this decision and a decision needs to be made or an extension granted.

Mr. Howard reviewed that there had been some remaining questions from the fire department side of things. Geoff Colegrove reviewed that he met with Pete Tyc, Jerry Russ and Sean Hayes on December 4, 2018 to go over the remaining concerns. He also provided a more recent memo from Chief Tyc with three remaining concerns. A revised map was created based on the December 4<sup>th</sup> meeting. Mr. Colegrove drafted a motion that requires that the plan be modified to comply with the identified issues.

Geoff Colegrove reviewed the conditions that were proposed to address Chief Tyc's comments.

Kevin Boyle asked what issues had been addressed and Geoff Colegrove reported that the biggest concern was which sites would be occupied and in what order and how many people would be on-site. They have now identified how many people can occupy the sites and the sequence in which things will happen. They will also notify the police as to how many people are in what areas. Changes that were put on the map include that two-way roads will be a minimum of 20 feet wide and one-way roads will be a minimum of 10 feet wide as well as that turning radiuses shall be a minimum of 30 feet in length. The calculations of the spaces were also redone to help with emergency evacuation. The remaining conditions are all issues that have come up after the December 4<sup>th</sup> meeting and Mr. Colegrove has reviewed all of them with the applicant.

Chief Tyc explained that the road narrows down to 13 feet near the lift shaft and maintenance building and is fine up until that area. His only question about area D was the slope to the pond and he wasn't sure that eight sites will fit in that area and still be 25 feet away from the building. Chief Tyc explained that this was in accordance with NFPA code 1194, dated 2018. Kevin Boyle asked if the 2018 code has been adopted by the state yet and Chief Tyc explained that it is up to the local jurisdiction and the code has been provided to the applicant.

Jerry Russ also explained that no cars would be allowed in area D and that would allow some relief for Fire Department access. Geoff Colegrove also explained that the proposed road has already been approved.

Kevin Boyle felt that, with this application in particular, it is important that the Commission dot all of the i's and cross the t's. Chief Tyc also explained that the Fire Department would not be able to conduct evacuations, but that really falls under the Emergency Management Department. Mr. Colegrove reviewed that an evacuation plan has been filed and this motion focuses only on the site plan issues. He also reminded the Commission that the applicant would have to go through the Board of Selectmen for each individual event.

Erin Howard asked if the Commission had any other questions or concerns. Mr. Colegrove felt that any other issues would be covered under the permitting for each event.

Kevin Boyle made a motion, seconded by Jan Wojas, to approve Powder Ridge Mountain Park and Resort, LLC, application for special permit to add short-term, event-based camping to the permitted uses at 99 Powder Hill Road, with the following conditions: (1) Modify site plan showing campsites in area D to be 25 feet from any structure; (2) Area F shall be shown as future campsites until there is a 20-foot road constructed accessible to the area; (3) Area H shall not be used until there is a 20-foot road constructed accessible to the area or the future access road and bridge are complete to the approved standards; (4) Proposed future camping spots in area G shall not be used until the proposed access road is completed in accordance with the approved standards; and (5) Correct map title from Powder Field Road to Powder Hill Road. Map reference: Site Plan - Camping Layout Powder Ridge Resort, Powder Field Road, Middlefield, CT, prepared by Milone and MacBroom, dated December 5, 2018. Scale: 1 inch equals 100 feet, version three, attached to this motion.

Mr. Colegrove asked if anyone was not at the hearings or listened to the record. Erin Howard seated Ken Hinsch on the Commission for this vote and Jay Brown was not seated.

Kevin Boyle asked what was expected if this approval is given and Geoff Colegrove explained that they would be looking for a revised map, reflecting the conditions, with today's date.

Motion carried, with Eric Ekblade abstaining.

Jay Brown was then reseated on the Commission and Ken Hinsch was unseated.

#### Report of the ZEO

Geoff Colegrove reported that a cease and desist has been issued to Nick Xenelis on the three properties and he and Jerry Russ have spoken to Ed Bailey and he will be getting a proposal to Mr. Xenelis shortly for the lease of the town property. He also stated that he looked at the minutes from the meetings with regard to Monarca Holdings and Mr. Monarca did appear before the Inland Wetlands commission about three times. He had been asked to move materials back 50 feet, but nothing has been done. In order for

Mr. Monarca to lease any land, it would require a zone change. Mr. Colegrove explained that he would still not be in compliance even if he leased additional property.

Erin Howard also mentioned that technically a cease and desist needs to be provided to the property owner as well as the offender and that property owner is the Town of Middlefield. It would be the town's responsibility as well for allowing the encroachment. Kevin Boyle felt that the First Selectman needs to be clear as to whether he wants to lease the land or not. Ms. Howard reiterated that the town, due to the fact that they have failed to negotiate, is just as much responsible for the fact that the encroachment is occurring. Mr. Boyle hoped that this action would force both parties to do something. Ms. Howard stated that the Commission has not charged the town, only Mr. Monarca, and Mr. Boyle suggested that they charge the town.

Jerry Russ explained that he spoke with Matt Willis about this and he stated that since the violation hasn't changed, they could move forward with action. He did not have a conversation with Attorney Willis about the town being the property owner. Ms. Howard wondered if it would hurt the Commission in court if they had not noticed the property owner as well as the offender. Mr. Boyle suggested they do that and stir the pot to get some action going.

Erin Howard asked Jerry Russ to contact Matt Willis to get some direction on this. The Commission generally agreed that they should notify the town as well, if Attorney Willis agrees. Geoff Colegrove reiterated that any of the proposals will not work without additional land, but that can be calculated.

Geoff Colegrove reported that he got a call from Mr. Xenelis' attorney and has also had some discussions with his engineer. He believes the Commission should see some progress before February 1<sup>st</sup>. No zone change would be necessary for Mr. Xenelis to lease any property. He also explained that in March, 2016, an existing conditions map was prepared of the Xenelis property and he was over by 7 percent of the 50 percent requirement. Since then, he has encroached further. Mr. Colegrove spoke with Ed Bailey and explained that if the town leased Mr. Xenelis the property, the whole site would be in compliance. Kevin Boyle pointed out that the leased property should not be touched and that that should be included in any lease agreement. Mr. Colegrove felt that Mr. Xenelis could make the site work without leasing any property.

Erin Howard has spoken to Ed Bailey about this issue, but she now feels that the Commission has to put pressure on the First Selectman regarding the lease agreement. Geoff Colegrove stated that Mr. Bailey was notified that the Commission is pursuing enforcement action.

Jerry Russ asked if any of this is appealable and Mr. Colegrove explained that they would have to make a claim that any of the Commission's assertions are incorrect and that they are not over coverage. The appeal would have to be made within 45 days.

Erin Howard commented that there has been conversation about how Middlefield is not business-friendly and this will not be on the Commission. He either complies or gets the lease from the town, but if he has to reduce his business model, that will not be on this Commission.

Jerry Russ stated that he has a conundrum in that he signed a building permit and the zoning permit for a house that had drawings showing that it conformed with all zoning regulations. A neighbor has appealed the ZEO's decision to approve the zoning permit for a house that has a 12" overhang that encroaches on the setback. Kevin Boyle stated that setbacks are based on birds'-eye view. Mr. Russ noted that the regulations need some work. Mr. Russ explained that when he asks for a final as-built to be submitted, that as-built is done measuring from the foundation to the property line. He felt that a structure does normally incorporate an overhang and if it were living space, he would consider it as a violation. Mr. Boyle stated that, using a birds'-eye view, the overhang would be an encroachment. You would have to ask the question as to what the eave overhang is.

Erin Howard stated she would have a hard time with ZBA giving Mr. Russ a hard time about a 12" overhang but allow second-family apartments. Mr. Colegrove stated that this is technically based on the interpretation of the ZEO, but Ms. Howard stated that he can refer back to the P&Z Commission and they have a right to defend their intent of that portion of the regulations and then go forward and revise the regulation. Mr. Colegrove agreed that the regulation needs to be revised to be more specific. Jan Wojas felt that this is very common in different towns. Mr. Russ requested that the Commission address this issue when they revise the regulations.

Discussion continued about the different regulations that are needed at Lake Beseck to allow for emergency vehicles and how different that is from two-acre zoning. Right now, the regulations are ambiguous as to how it is measured. Mr. Colegrove explained that he has always used the as-built to issue permits. Jan Wojas asked how the maximum height of the building is calculated as well. Erin Howard summarized that the regulations are horrible and need revising. Ms. Howard did state that she doesn't feel ZBA has been playing fair and this will become a tit for tat situation. She feels that ZBA has been waiving P&Z regulations repeatedly. Kevin Boyle felt that ZBA does a fine job and they may, in fact, overrule Mr. Russ tomorrow and ask them to come back with a one-foot variance.

Mr. Russ explained that the neighbor had had a very contentious building process with the town and they are now the ones challenging three things, the site plan, the overhangs and a deeded easement that goes through the property. Attorney Willis has already reviewed it and the right-of-way no longer exists.

Erin Howard also asked that if this gets overturned, that she be notified so that she can attend the next ZBA meeting to defend the position of the Planning and Zoning Commission. Mr. Boyle reiterated that this should be an encroachment and should be measured birds'-eye.

Kevin Boyle asked how things are going at the Cihocki property and Jerry Russ reported that the son has been gone for quite a while, but is back now. He did speak with the son on Monday and they are trying to sell everything. Mr. Boyle asked about the property on Peters Lane and Mr. Russ stated that he sent another notice and the property owner stated that he is doing the best he can in trying to get rid of stuff. Mr. Russ has received letters from the banks and attorneys that no further liens or injunctions can be placed on the property. Mr. Russ explained that he is making a little headway on other properties that have issues. Jimmy D's is back in compliance.

### Report of the Town Planner

Geoff Colegrove didn't have anything further to report. He is trying to shift the burden over to the ZEO.

Erin Howard thanked Mr. Colegrove for sending out the Town Planner's review and wished that it could have been included in the agenda packets.

### Chairman's Report

Erin Howard stated that the first priority is what will happen with the future Town Planner position and she does not know what will happen as of yet. She has spoken to the Chairman of the Durham Planning and Zoning Commission and they hope to meet with Ed Bailey, Laura Francis and Geoff Colegrove. The concern of a shared position for the two towns is that the person would have multiple meetings to attend though she is aware that many people do that. Ms. Howard has made it clear to Durham and Ed Bailey that she is fighting for someone to be a true part-time Town Planner moving forward and would like that person to be in the office to help answer questions. Durham feels that they do more work than Middlefield, though Ms. Howard doesn't know if that's necessarily true. Mr. Boyle felt that they can't allow Durham to dominate and it needs to be 20 hours for Middlefield and 20 hours for Durham.

Ms. Howard stated that an idea on the table is that the COG hire a town planner and that would mean that the two towns would pay an extreme amount of money for a person to sit at the COG and work there. She did note that neither she nor Mr. Colegrove are in favor of this situation. Ms. Howard felt that if the COG feels they need a planner, then they should hire one and the town always has the ability to hire a planner on a consultant basis. Mr. Colegrove felt that the key issue would be the financial cost involved and explained that the River COG would add 1.4 times for overhead and fringe. He is putting together a utilization chart to have each town fill out to describe what roles they would expect the planner to fill and what the expectations would be.

Erin Howard did explain that there is a strong push on the state level to promote regionalism and shared services, so they will at least explore that.

Ms. Howard reiterated that Scott Wheeler has resigned and that she would need someone to step up to become the secretary. She is not sure who would Ed Bailey would appoint as a regular member. Kevin Boyle did comment that he received a phone call stating that Mike Crocco was sick tonight and could not attend the meeting. Ms. Howard noted that that was probably because the town website states that Kevin Boyle is the chair.

Jan Wojas stated that Mr. Bailey has spoken to him about becoming a regular member of the Commission.

### Miscellaneous

Kevin Boyle asked if they were going to continue meeting on Mondays since they changed the meeting dates to Mondays for someone who is no longer on the Commission. He asked if anybody cared whether they stayed with Mondays or went back to Wednesdays. Jan Wojas preferred Tuesdays, but would be fine staying with Mondays. Everyone generally agreed that Mondays were good.

Geoff Colegrove mentioned that there would be conflicts with the third Mondays during the first two months of the year. It was agreed to meet on the fourth Monday of the month in January and February.

Kevin Boyle made a motion, seconded by Eric Ekblade, to approve the meeting dates for 2019, as attached. Motion carried unanimously.

### Approval of Minutes - October 15, 2018 Meeting

Jan Wojas asked to have the paragraph on page 5 corrected to read that he is the chair of the Durham-Middlefield Division of the Chamber of Commerce and to correct the spelling of his last name in the same paragraph.

Eric Ekblade made a motion, seconded by Jan Wojas, to approve the November 19, 2018 meeting minutes, as amended. Motion carried, with Jay Brown abstaining.

### Adjournment

A motion was made by Kevin Boyle, seconded by many, to adjourn the meeting. Motion carried unanimously. The meeting was adjourned at 7:58 pm.

Respectfully submitted,

*Debi Waz*

Debi Waz  
Alwaz First

**MIDDLEFIELD  
PLANNING AND ZONING COMMISSION  
MIDDLEFIELD, CONNECTICUT**

**SCHEDULE OF 2019 MEETING DATES**

3<sup>RD</sup> MONDAY OF EACH MONTH  
(UNLESS NOTED)

6:30 PM at the Middlefield Community Center Meeting Room, 405 Main Street

JANUARY 28  
(4<sup>th</sup> Monday due to Martin Luther King Day)

FEBRUARY 25  
(4<sup>th</sup> Monday due to Presidents' Day)

MARCH 18

APRIL 15

MAY 20

JUNE 17

JULY 15

AUGUST 19

SEPTEMBER 16

OCTOBER 21

NOVEMBER 18

DECEMBER 16

Dates approved by the Planning and Zoning Commission at the December 17, 2018 meeting.