

TOWN OF MIDDLESEX
PLANNING BOARD
Minutes – November 4, 2009

Board Members Present: Marty DeVinney, Chair; Loretta Henrie, Lynn Lersch, Robert Mincer, Bruce St. Lawrence, Dawn Kane, CEO

Public Present: Vincent A. Pigula; Edwin Button; Gerry Colf; Terry & Brandi Deeds; Ulf Kintzel, Robert Gunderman; Linda Sheive; Donald Sheive; Doug Skeet

Agenda: Site Plan Review Applications for Mr. Terry & Brandi Deeds for a Minor Subdivision; Mr. Vincent Pigula for installation of a replacement Tram System

Marty DeVinney opened the meeting at 7pm.

1. Site Plan Application - Minor Subdivision application for reconfiguration of property deeds between Mr. and Mrs. Terry Deeds on the corner of Bagley/Dunton Road, Middlesex (AG District) and Mr. Ulf Kintzel of Bagley Road to obtain additional acreage to expand his sheep farm. Mr. Deeds and Mr. Kentzel presented the application. A short discussion followed concerning turnaround capabilities referencing the Private Driveway Law. It was established the path was pre-existing before the law, making it conforming. PB determined that a SEQR was not necessary. Board Member Bruce St. Lawrence made a motion, seconded by Robert Mincer to accept the plat. A vote carried with all board members present in favor. It was determined by the board that the application was approved and site map was signed by the Chairman of the Board and returned (3) maps to Mr. Kintzel upon his request.

2. Site Plan Application - reinstatement of permit to install a replacement Tram System. The board shall consider reinstatement of Mr. Pigula's permit #052709 revoked on July 6, 2009 by the Office of Code Enforcement-Town of Middlesex . This revocation was due to site failure because of significant deviation of site installation methods previously approved by the Planning Board.

Chairman DeVinney advised all those present of civil responsibilities in communicating disputes between neighboring parcels. He stated that any determinations made would be based on professional reports requested from outside sources, and the culmination of over 21 months of research. Resources used to make this determination include the following:

Marine Innovations Tram Installers of Michigan; NYS Code Division, ASME A 17.1 – American Society of Mechanical Engineers – Safety code for incline elevators. (Sect.5.4); State of Washington Dept. of Labor/Industry Elevator Division; State of Michigan Mechanical/Elevator Division & Chief Code Engineer; Review by LU Engineers, representing Town Engineer; Geotechnical Engineering Reports from Foundation Designs, P.C. and Fisher Associates; Marathon Engineering as contract engineer; Presentations by ANKOM Development, Inc.- Finger Lakes Tram Installer; Rick Ayers of Yates County Soil

and Water Conservations Services, Inc.; Kevin Olvany of Canandaigua Watershed Council; George Barden, Canandaigua Lake Watershed Inspector; Yates County Planning Board; NYS OSHA site review; NYSDEC review and final report; Full SEQRA Environmental Assessment 617.20 prepared by client with the Town of Middlesex Planning Board as Lead Agency, Site Plan Reviews by Planning Board of the Town of Middlesex dated 10/16/08 to 11/4/09. This research began on 2/14/08 when property owner, Mr. Vincent Pigula, represented by Finger Lakes Tram, Inc. applied to the Town Board of Middlesex for a waiver from a Moratorium Law #1 of 2008 on Tram System Installations placed while the Planning Board of the Town of Middlesex did research on human transport systems on the cliff banks of East side of Canandaigua Lake.

A motion was made by Marty DeVinney and seconded by Bruce St. Lawrence that the application to date was complete and ready for determination. A vote carried with all those on the board present and in favor of this motion.

Chairman DeVinney opened the floor to discussion in response to letter from neighbor Mr. Robert Gunderman, dated 10/23/09. This letter was in response to a final report by Marathon Engineering to the Planning Board of topics of concern. Mr. Gunderman's letter was read and the board discussed topics of concern in response.

Review of project to-date followed from CEO, Dawn Kane of the Town of Middlesex.

Chairman DeVinney entertained a motion to initiate the SEQRA process as lead agency. Board member Bruce St. Lawrence made the motion to proceed and Robert Mincer seconded it. The board completed Part 2 in public and determined reasons for the extent of project impact and its magnitude. The following were determined to be potential large impacts to the environment's site features:

- Impact on Land/Water: Tram installation in a fragile steep slope environment next to public drinking source and community natural resource.
- The bedrock onsite is exposed with potential continued eroding of shale face terminating in the lake (may be mitigated by chain link fence at shoreline)
- Unique/unusual land forms found on site threatened by site construction.
- Known objections to project as potential for subsurface failure and damage to neighboring buildings – potential unknown based on professional geo-technical resources reviewed by board.

Part 3 was completed by the Planning Board as follows: the proposed action - the replacement of a tram system that drops approximately 100' down a 40 degree cliff face to the shoreline of Canandaigua Lake, is by definition in SEQRA Regulations, Section 617.13(d)1 a Type II Action. However, because the project is situated on and along this unusual cliffside land form, which by its nature is sensitive to development, there is potential for large negative impacts during construction. Therefore, the sponsor was

required to complete PART 1 of this EAF and the Town of Middlesex Planning Board as Lead Agency, determined that Questions #1 and 2 of PART 2 should be determined as having a potential for large impact.

In an attempt to determine if these impacts could be mitigated significantly through changes in the project, the Planning Board consulted the following agencies and professional services:

- The Canandaigua Lake Watershed Inspector
- The Canandaigua Lake Watershed Council
- Yates County Soil and Water Conservation Services, Inc.
- NYSOSHA
- Marine Innovations, Inc. of Michigan
- NYS Code Division – ASME 17.1, Sect. 5.4
- State of Washington Dept. of Labor/Industry Elevator Div.
- State of Michigan Mechanical/Elevator Div.

In addition, the Planning Board hired LU Engineering as Town Engineer to review information and documents submitted by:

- Marathon Engineering
- Fisher Associates
- Foundation Designs, P.C.
- Finger Lakes Tram, Inc.
- NYS DEC
- NYS Erosion and Sediment Pollution Control Narrative
- NYS SEQRA Full Environmental Assessment
- Robert Gunderman, neighbor

The Site Plan Review process involved reviewing much information contained in the original file lasting 21 months. Based on the submitted information and the changes in the project scope, the Planning Board determined that the mitigation measures implemented at the request of the Planning Board and Lu Engineering would minimize the potential impacts to such a degree that allowed it to make a “Conditioned Negative Declaration” for the project. The SEQRA process was completed and Chairman DeVinney entertained a motion for declaration determination. Board member Robert Mincer made a motion to declare a “Conditioned Negative Declaration” for this action. Board member, Bruce St. Lawrence seconded the motion.

Vote was taken as follows:

Marty DeVinney	aye	Robert Mincer	aye
Loretta Henrie	aye	Lynn Lersch	aye
Bruce St. Lawrence	aye		

Motion carried with conditional approval by the Planning Board. The following conditions were placed on the approval:

- *proper remediation of the site as discussed would take place
- *onsite daily supervision during installation by Geo-technical Engineer

*Final Inspection by Code Officer, Dawn Kane and sign-off when scheduled as appropriate.

Meeting continued with a detailed report by chairman DeVinney referencing a draft Moratorium Law to be recommended by the Planning Board to be placed on all building in the LR Steep Slope Districts of the town for the winter months. A motion was made by Lynn Lersch and seconded by Bruce St. Lawrence and board voted all in approval of motion. It was noted that a law had been drafted by our Town Attorney for bringing to the Town Board in January for review.

Board member St. Lawrence made a motion seconded by Loretta Henrie to approve minutes for October 7, 28th , 2009.

Board discussion followed for a recommendation by the Planning Board to be read to the Zoning Board of Appeals at their November 19th hearing of The Highland Group of Canandaigua Lake LLC. This recommendation would reflect the board's position on an area variance requested by the applicant in approving access to (4) building lots on East Lake Road as it applies to the Private Road/Private Driveway Law and the concern of the board that if a variance is procured, the inference may be implied that such lots were deemed buildable by the Town. The Planning Board has many concerns in reference to building on the high bank cliffside area of the LR District.

Motion to adjourn at 10:15pm was made by Loretta Henrie and seconded by Lynn Lersch.

Next meeting: November 18th Agenda: Site Plan Review for applicant Don Miller, representing agent for Mr. Win Harper of Bare Hill Rd. (AR District) Single Family Residence, New Construction

Minutes submitted by L. Lersch. Revisions to Lsammy5@frontiernet.net

