

TOWN OF MIDDLESEX
PLANNING BOARD
Minutes - Oct. 5, 2011, 7pm

Board Members: M. DeVinney, Chair; J. Gilbert, L. Lersch, R. Mincer, B. St. Lawrence
Others present: D. Kane, Code Enforcement Officer; Thomas Fromberger, MRB Group; Mr. Ed Kaiser, Mr. Alex Kuehne; Mr. Tom Johnson; Ms. Carolyn Ruscio; Mrs. Margaret Ruscio; Mr. Donald Sheive

Agenda: Application # 091211-SPR/Mr. Bradley Quayle requesting Site Review for Permitted Commercial Signage for Business at 5628 Water St./Rte. #364 (HR); **Application #091311-SPR/Mr. Ed Kaiser**, representing agent Mr. Alex Kuehne of Kuehne Construction for construction of a storage shed on shared property at Newago Avenue, (LR); **Application #071410-SPR/Dr. Jay Yates**, representing agent Mr. Tom Johnson for Site Review of map revisions for Single Family Residence at 708 East Lake Road (LR); **Application #09211-SPR/Mr. Andrew Komarek**, representing agent, Mr. Thomas Fromberger, for Preliminary Site Review of a Major Subdivision of (4) lots on East Lake Road, Tax Map ID #2.03-1-2.1 (LR).

Meeting came to order at 7:15pm

Approval of Minutes - Draft minutes for 8/3/11 and 9/14/11 were approved by the Board with revisions. A motion to accept with revisions was made by Robert Mincer and seconded by John Gilbert. Motion carried with all Board Members present in favor.

Site Plan Reviews:

1. **Application # 091211-SPR/Mr. Bradley Quayle** for a commercial sign for business at 5628 Water Street was not reviewed due to applicant not in attendance.
2. **Application #091311-SPR/** Construction of a storage shed on shared properties. Mr. Alex Kuehne of Kuehne Construction, representing agent for Mr. Ed Kaiser, co-owner of shared properties at #786, 788, & 790 Newago Avenue (LR).

Ms. Dawn Kane summarized the Site Plan stating it was a storage shed to be set on piers in a gravel base, and of minimal size which met all height and setback restrictions under current zoning.

Mr. Alex Kuehne presented the project proposal, stating it was a storage shed of pole barn style constructed on piers and set into the ground. It would be back filled with a crushed stone gravel base. Storm water runoff will be directed to the parking area. He proposed to build up the grade on one corner because of an existing water retention problem. The footprint would measure 30 sq. feet. Shed height at peak will be set at approximately 8' 11" after new grading and will not obstruct neighboring views. Pictures of the project site with surrounding buildings were offered to the Board for review. A privately owned utility pole will be removed without concerns from NYSEG.

Mr. Ed Kaiser answered a Board inquiry of how the shared ownership was legally classified, stating the legal term was 'tenant in common' meaning the parcels had all (3) names on the deed. Each of the (3) properties had separate tax bills, and each property had separate dwelling ownership. Mr. Kaiser owned #786 Newago Drive.

Chairman DeVinney inquired if the Board wished for further discussion. After no further discussion, Chair DeVinney asked for a motion to approve the Site Plan as presented. Board Member Mincer

made the motion and Board Member St. Lawrence seconded it. Motion carried as approved with all Board Members present in favor.

Ms. Kane stated that permitting paperwork would be scheduled for Wednesday, October 12th.

3. **Application # 071411- SPR/** Dr. Jay Yates – Map revisions for a Single Family Residence at 708 East Lake Rd., (LR).

Ms. Kane, CEO summarized the application stating that the site had been previously approved by the Planning Board last May and had gone through a couple of area variances for setback violations. These had been granted by the ZBA last December.

Mr. Johnson, architect for the project, stated that new house plans were designed and submitted with a foundation movement of (2) ft. from prior stamped plans. Also the septic tank plan was to move 6 ft. to the east.

The Board requested that prior to permitting, all revisions be updated on the site map to bring it to current specifications and a letter from Watershed Inspector, Mr. George Barden stating his approval of the position of the relocated septic tank.

Ms. Kane advised that the Board also request a letter stating the site revisions to be made on the application site map, and also a construction and excavation schedule from the contractor, Mr. Jeremy Fields. She cautioned the Board to be aware of the length of time remaining for site installations in reference to the stabilization of sites prior to onset of winter weather.

A motion to approve the Site Plan with conditions was made by Mr. St. Lawrence and seconded by Mr. Mincer. The Board voted in favor of the motion from all Board Members present. The application was given a conditional approval by the Planning Board. The following conditions shall be resolved prior to issuance of a permit:

1. Planning Board requests a letter documenting all revisions to be made on application.
 2. Driveway detail to be shown on site map, noting gravel as base material and width of driveway not to exceed 9 ft., with noted consideration in respect to the north boundary line.
 3. Grading contours on the west side of the house to show the correct slope of the lay of the land to reflect “outfall” from last check dam. Attention to final grade when building the wood deck, to keep to the Contour #703 shown to avoid spill over into the lake. A further revision to the check dam detail itself should reflect a “keyway trench.”
 4. Drainage to be shown around footers that tie into house foundation and new drainage system.
 5. New Erosion Control Plan of entire site with notation of appropriate maintenance sequencing until site is stabilized and vegetation established.
 6. Erosion Control silt fencing and maintenance sequence notation, referencing area(s) of onsite stockpile spoils.
 7. Due to moving the septic tank, 6 ft. to the east of previous indicated location, a letter of approval is required from Mr. George Barden, Watershed Inspector of Canandaigua Lake Watershed Commission.
 8. General Contractor is required to submit a Construction Sequence Plan, and an Excavation Sequence Plan, noting contractors used, with the general contractor responsible for implementation of the approved Site Plan on a daily basis.
4. **Application #091211-SPR/** Mr. Andrew Komarek, represented by agent Mr. Tom Fromberger

requests a (4) Lot Major Subdivision of property at East Lake Road (LR), Tax Map ID #2.03-1-2.1.

Mr. Fromberger, P.C. from the MBR Group, representing applicant Mr. Komarek, stated that this was a conceptual review for a proposed (4) lot Major Subdivision on approximately 8.5 acres on East Lake Road which would be serviced by an existing gravel driveway to be used as a single road access with shared driveway extensions to the (4) lots. The parcel also had an existing easement providing lake access to upland parcels east of East Lake Road which now is serviced by a long set of stairs from road to lake.

Chairman DeVinney clarified that this existing gravel driveway should not be defined as such on the plans as shown, because the owner, Mr. Komarek had only been permitted to improve a path from East Lake Road to a site for “tram” installation purposes only. Any further improvements made were not to be considered “grandfathered”, nor used for vehicular access to a dwelling and were made without a legal permit by the town. When it is defined as an “existing driveway/road” on engineered plans, it implies more than is legally allowed. Applicant was asked to label it as “gravel path”.

Mr. Fromberger presented the proposed plan as conceptual only. The application had been through (2) NYSDOH reviews with some revisions still to be made before approval was obtained, but the plans had met with George Barden’s erosion control management requirements as submitted. The Drop Box system is an aerobic treatment system which would be pumped to an upper tier with retaining walls.

The Board referred to the review from the Yates County Planning Board which had voted to approve the proposed action with the condition that the applicants address all concerns listed in the 9/21/11 letter from Rick Ayers of Yates County Soil and Water. The (4) concerns from Mr. Ayers review were:

1. a referral to Develop Contact Dixon Rollins at Region 8 DEC to discuss compliance with NYS regulations because of the soil types in this extremely steep parcel and the possibility of the need for an individual SPDES permit.
2. A more complete review of erosion control in storm water management was needed showing more detail of how concentrated flows will be managed onsite, pre and post hydrology calculations as well as sizing data must still be completed.
3. Retaining wall design plans for the home sites, and the plan for lake access for the proposed homes still need to be submitted.
4. Mr. Ayers felt a single point of vehicular access from East Lake Road would be beneficial for this site as multiple driveways would cause more erosion and storm water management concerns.

Board Chairman, Mr. DeVinney explained the procedure for permitting a single access for more than one dwelling. To be in compliance with current local zoning, any vehicular access that services (2) or more dwellings is considered a “private road”, and in the Lake Residential District these “private roads” are not allowed for any new construction. Any that previously existed were “grand-fathered” in and are now listed in our present zoning code. In certain steep slope fragile areas, such as the High-Bank area of East Lake Road, it was understood by the Board that if access by use of a single driveway per dwelling was proposed in a multiple dwelling subdivision, and such plan could be engineered and proven to be less of a detriment to the existing environment pertaining both to the amount of soil disturbance and the best management practices for erosion control, it would be beneficial to the Town to consider such a plan. So an amendment to current zoning was adopted, which allows by Special Use Permit, single access with shared driveways, if it can be proven by the applicant that a single driveway access plan is indeed better

for the environment and emergency access to each dwelling. This Special Use permit requires the applicant to submit (2) preliminary plans for subdivision approval. After all necessary reviews are conducted, a determination of which plan would be more feasible, the Planning Board could recommend approval of the Private Road Preliminary Plat upon the condition that the Zoning Board of Appeals grant a Special Use Permit. The ZBA shall then consider the Planning Board's recommendation to grant the Special Use Permit. If granted, the application is then referred back to the Planning Board for final subdivision plat approval.

Board Member Mincer discussed with applicant the technicalities of constructing the access road and individual driveways to provide ample room for appropriate emergency vehicle access and vehicular passing and parking during a fire event.

A copy of the Standards for New Roads (Local Law # 2 of 2007) was handed to Mr. Fromberger which showed appropriate radius of emergency vehicle access and turnaround clearances.

Mr. Fromberger was advised by the Board of required filing of driveway plans to County Highway Dept., Supervisor David Hartman, once a Special Use Permit is obtained because the Subdivision accesses a county road.

A September 30th written review by Town Engineer, Lu Engineers was discussed point by point with Mr. Fromberger.

Tree removal for site clearance was discussed by the Board and applicant was advised that even the clearing of small trees in this fragile area could hinder the storm water management of the parcels and so would need review. Applicant answered that minimal cutting would be required for the driveway sections, foundation drainage, and plans for a "tram" for owners to access the lake.

The Board advised Mr. Fromberger of an amendment to our Zoning Law (Local Law#5 of the Year 2008, referencing the addition of "tram systems" to the definition of "Structure" and provision of regulations for the installation and replacement of "tram systems" located in the Town of Middlesex. (Section #609: 609.1, a-b: Application for permit) This section allows permission of a tram system to be permitted to serve only a private single-family residence in accordance with ASME Standard 17.1, section 5.4) Advisement focused on using a single tram system to service more than one dwelling would not allowed. A copy of this amendment was given to the applicant.

To conclude the review, it was noted by the Board that this Site Plan was to be considered a Preliminary review as it was more than merely conceptual. Mr. Thomas Fromberger stated that their next step would be to address comments made in all reviews, revise the Site Maps, submit them to Lu Engineer and then request to be placed on the Planning Board agenda.

Other Business:

Code Enforcement Officer, Ms. Kane discussed with the Board the sensitivity of the current Cunningham site on South Lake Road. Her concern was the need to stabilize the site before onset of winter. The board commented on enforcing the remediation plans advised by Lu Engineer and the suggestion of some type of erosion control product if grading does not take place until Spring. due to its' close proximity to the lake.

Chairman DeVinney reported on the position of the Town Board on Hydro-fracking concerns. A motion to offer a resolution to the Town Board to recommend the adoption of a (1) yr.

Moratorium Law on all activities pertaining to the acquisition of natural gas by method of Hydro-fracking and putting this Moratorium Law in place to commence once the state GEIS review period has expired to receive maximum benefit of the time to research any edits/additions to our Master Plan, Zoning Ordinance and Local Laws. A motion to approve by resolution this recommendation and subsequent request of the Town Board to set a Public Hearing, was made by Board Member John Gilbert and seconded by Board member Mincer. All Board Members present voted in favor of the motion.

Chairman DeVinney opened the floor up to residents Mr. Donald Sheive, and Ms. Peg and Carolyn Ruscio who invited members of the Board to attend a workshop in Dundee on October 17th at which prominent speakers Coffin, and the Slottje Land Use Lawyers would be speaking on the topic and how local communities could best be educated on what could be done legally to be prepared. Mr. Sheive was invited to make a short presentation on November 2nd of key points derived from the Dundee workshop after attending.

Next meeting agenda: October 19th, 7:30pm:

Draft Steep Slope Law - Board Member St. Lawrence summarized an outline for a proposed Saturday work session at the end of October among Town Board Members, Planning Board Members, Kevin Olvany, George Barden, Rick Ayers and Scott Prior from Lu Engineers. The key points to this workshop would be to include the edits from Town Board Member and Planning Board Member comments from the previous work session. Lynn Lersch will send out an invitation which includes topic goals to be completed by session end.

A motion to adjourn was offered by Marty DeVinney and seconded by Board Member Gilbert. Meeting adjourned at 9:15pm

Minutes submitted by L. Lersch/revisions to: lynn.lersch@gmail.com