

TOWN OF MIDDLESEX

PLANNING BOARD

Minutes – February 1, 2012

Board Present: Marty DeVinney, Chair: John Gilbert, Lynn Lersch, Robert Mincer, and Bruce St. Lawrence

Others Present: Dawn Kane, CEO; Ms. Alaine Espenscheid, Town Attorney, Mr. Jason DeKouski, Mr. Rocco Venezia, Mr. Tom Fromberger, Mr. Andrew Komarek, Mr. Brenda Komarek, Mr. William Kenyon, Mr. Richard Testa, Ms. Barbara Ames, Mr. Calvin Ames, Mr. William Frohm, Mr. Mark Lapari, Mr. W. Bate

Agenda: Application #12211-SPR/Minor Subdivision at 91 Lindsley Rd. (A/R); Application #11812-SPR/Minor Subdivision/Lot Line Reconfiguration of vacant property at Rte. #364, located eastside near Elwell Rd.(A/R); Application #122011-SPR/Site review for Permit to commercially store trailered boats on property on 843 Elwell Rd. (A/R); Application #02010-SPR/Minor Subdivision Site Map Revisions of (3) lots to be served by a common driveway at 556 E. lake Rd., (LR); Application #091211-SPR/Preliminary Plat of a Major Subdivision of (4) lots served by common road access and/or multiple private driveways on East Lake Rd., (L/R)

Meeting came to order at 6pm.

Site Reviews for:

1. Application #12211-SPR/ Minor Subdivision at 91 Lindsley Rd, Middlesex (A/R). Owner Mr. Charles Green was not in attendance - application was not reviewed.
2. Application #11812-SPR/Minor Subdivision –Lot Line Reconfiguration of vacant property at Rte. #364, located eastside near Elwell Rd., Middlesex (A/R) owned by Ms. Barbara Ames. Mr. Rocco Venezia of Venezia & Associates represented Ms. Ames and presented the application. Ms. Kane, CEO summarized the application’s history to the Planning Board and stated that there were no zoning concerns under current Zoning Law.

The Board completed a SEQRA assessment determining that the proposed action would not result in any significant adverse environmental impacts and provided reasons supporting the determination. Board Member Mincer made a motion to accept the declaration that there not a negative impact to the surrounding neighborhood and Board Member St. Lawrence provided a second. The motion carried with all members present in favor.

Board Member Lynn Lersch made a resolution to approve the Minor Subdivision and Board Member Robert Mincer seconded the motion. All Board Members present voted in favor and the motion carried.

3. Application #122011-SPR/ Site Plan Request by Mr. Jason DeKouski, for a permit to commercially store trailered boats on vacant property owned by Mr. Terry DeKouski at 843 Elwell Rd., Middlesex (A/R)

Code Enforcement Officer summarized the application as a land use that is permitted with Special Conditions (Art. IV, Section 402B which refers to Sect. 501.14 for description of the Special Conditions. Ms. Kane stated that there had been a number of complaints referencing the placement and the quantity of boats previously stored without a permit.

The Planning Board advised the Applicant of the procedure to apply for the Special Use Permit and reviewed the applicable special conditions with Mr. Jason DeKouski, owner of Finger Lakes Boat/Repair. Mr. DeKouski stated that he would like to eventually store approximately 150 to 200 boats in an area of approximately 100 sq. feet. There would be little to no traffic except when a truck was bringing or taking trailered boats from the property. He would like to store them in winter white shrink wrap plastic to reduce visibility from October to May. He would require no lighting or signage. He stated that the property already had a natural buffer of trees when in full foliage on all three sides, but the boats were visible due to the current winter having little to no snow cover.

Ms. Barbara Ames stated her complaint appealing to the Board that she could no longer look out her kitchen window without seeing the boats quite plainly due to the upland slope of the lay of the land. She felt that there would be some difficulty determining the height of a buffer berm due to the land slope and since the quantity of boats had increased from last year, wanted to register her complaint. She invited the Planning Board to visit her home to view the site.

The Board decided that it would be beneficial for determination to visit the site and requested Mr. DeKouski to return for a possible determination next month. Mr. Jason DeKouski agreed to this proposal by the board and a site visit was to be scheduled before the next meeting.

4. Application #021010-SPR/ Highlands Group of Canandaigua LLC for a Minor Subdivision of (3) lots with Site Map revisions in order to meet requirements for a Special Use Permit for a single private driveway to served (3) proposed building lots at 556 East Lake Rd., Middlesex in LR Zoning District.

Code Enforcement Officer, Ms. Kane summarized the application stating that the application had revised their site maps asked for the Lu Engineer Sept. 1st review, had met with the County Highway Supervisor David Hartman's approval for the single access off of East Lake Road and an onsite visit with Ms. Kane, Town of Middlesex Highway Superintendent Reifsteck and Lu Engineer spokesman had concurred that the entry apron, grade, and radius access was appropriate for vehicular egress/ingress. Emergency vehicle access was sufficient and included a spot to turn-around, and a turn-off lane was provided on the proposed private road.

Board Member St. Lawrence asked about an agreement for maintenance/repair of the private road. It was stated by Mr. William Kenyon, Attorney for the Highlands Group that before building sites were sold and titles transferred, a declaration of easement would

be signed by intended owners clarifying their responsibility for rights of way and that all vehicular parking 25 ft. either side is denied in order to maintain open passage for emergency vehicles and road maintenance.

The Planning Board felt map revisions made by the applicant were complete and signified the application was ready for a recommendation from the Planning Board to proceed to the ZBA in March for a Special Use Permit allowing a private road in the LR District.

Board Member St. Lawrence made a motion for an approval to accept the plan as submitted and make a Board recommendation, to allow a private driveway serving (3) building lots, to the Zoning Board of Appeals for a Special Use Permit application - contingent on the following conditions:

1. That the up fall drainage detail was included on the detail sheet.
2. Lu Engineer would make the final approval of the site plan before work commenced on the private road.

Board Member Gilbert seconded the motion as stated. All Board Members present voted in favor of the motion as approved with conditions and the motion carried.

5. Application #091211-SPR/ Major Subdivision on E. Lake Rd, Middlesex (L/R), represented by Tom Fromberger, P.E. of MRB Group.

Mr. Fromberger referred to Lu Engineer's review of January 31st, stating that a plan for the separate driveways and a private road to serve all (4) building lots could be submitted to meet all of Lu Engineer's requirements in the letter. Raised Septic design placement for each building lot could also meet requirements by NYSDOH as well. He also stated that both plans were submitted to Ms. Cheryl Robbins and Mr. George Barden for conceptual review and feedback stated that each plan was feasible.

The Planning Board and the Code Enforcement Officer questioned that a conceptual design would be approved by either George Barden or Cheryl Robbins and that the Planning Board would need final approval of the septic before proceeding further with the review. It was restated by Mr. Fromberger NYSDOH approved both plans as feasible and it was based solely on a conceptual review.

The Board reviewed both plans and discussed driveway slopes. Current Road Standards and Private Driveway Laws require a 10% slope and the Board stated the proposed private road plan showed a steeper slope than required by Town Laws, and as well, the radius of the first turn would need more review for emergency vehicle access. Referencing the plan showing proposed single driveways to the (4) proposed dwellings, the proposed septic placement near the cliff at lakeside and house pads placed near to the road was advised by NYS DOH Cheryl Robbins as being too steep and it was suggested flipping them on the plan to keep the septic's a further distance from the lake.

Mr. Fromberger stated that the J-1 Plan with the (4) single driveways had not been further developed as there was confusion over why they had to submit both plans with further details when it was their intent to propose the single access private road to the subdivision.

Chairman DeVinney explained the intent of the ZL Amendment, which gave the Applicant ability to apply for a private road in the LR District, was if in the submission of (2) plans (one with a single road servicing more than one dwelling, and the other showing single driveways to each dwelling) it was proven in the Preliminary Plat that it was more environmentally beneficial to the land to have a single private road access rather than the four single driveways, the applicant was then able to proceed to the Zoning Board of Appeals with an application for a Special Use Permit with a recommendation from the Planning Board. Chairman DeVinney went on to state that if the Board selected J-1 as submitted, the septic placement would not be approved by NYSDOH.

Board Member St. Lawrence stated that in the submitted plan showing a single road access to the (4) lot Major Subdivision, it was cited under the *Driveway Design Guidelines for the NYS Dept. of Transportation Residential Driveway Design Policy*, as well as in our Road Standards and Private Roads/Private Driveways Law, driveways shown were not within the recommended slope for driveway access and would not be feasible for emergency vehicle access. He advised that the driveway be graded to meet slope requirements. Mr. Fromberger was advised of the intent of the Town to adopt a Steep Slope Ordinance, sometime in the near future, that would regulate development on steep slopes and advised them to review the current draft model and it's (3) slope categories, which could be found on the Town's website, to ascertain how it pertained to their proposed development plans. Referencing being grand-fathered in by submitting conceptual plan applications, it was stated that it was possible the relevancy of vested interests might not pertain and wanted to advise them upfront that when it came to building permits, whatever law was currently on the books would be enforced.

Chairman DeVinney stated that the 40% restrictions impacted a few remaining parcels on the lakeshore to be developed, and within each parcel, more than one slope % could be found, each with separate restrictions, so development could occur but on the lesser grades on each parcel. He also stated that in looking at site plan submissions, the Planning Board would be looking at less density on steep slopes; septic's placed away from the lake, length and slope of driveway and health, safety and welfare to intended buyers of proposed building sites having appropriate emergency vehicle access. We will go to the next step once all site plan requirements under current laws are met.

Owner Mr. Komarek cited that on the (4) single driveway plan; the houses were cited on the flattest portions of the parcels. Board Member St. Lawrence showed that the building pads on areas shown on the plans were at a 42% slope or 21/22 degrees of slope.

Chairman DeVinney stated that it was the policy of the Board to approve Site Plan(s) which had final septic approval from NYSDOH. He read Ms. Robbins letter stating the NYSDOH's position on the septic design, as submitted referencing the slope, was too steep.

The Planning Board reviewed Lu Engineer's report of January 31st with the Applicant. Mr. Fromberger stated that he would make map revisions accordingly and resubmit. He asked the Board to give a ruling on "Preliminary Approval".

The Board described in full detail their understanding of "preliminary approval" and would send them a written definition stated in Town Law.

Mr. Fromberger stated that taking both of the submitted plans to full design depth is counter-productive. Mr. DeVinney replied that under the ZL Amendment to allow Private Roads in the Lake Residential District, an applicant needed to submit plans that proved that a "Private Road" would be more beneficial environmental. We, as a Planning Board cannot give a recommendation without specific details on the plans.

Owner Mr. Komarek argued that a preliminary plan would only need to show septic placement, which in their opinion was based on what is feasible. It was stated that they had brought the plans to a place which was closer to final than preliminary by definition, had stayed within the intent of the law and challenged the Board to interpret "preliminary plan approval" and what it detailed as requirements.

Chairman DeVinney stated that he would get legal clarification on this and respond back.

Other Business:

Board Member Lynn Lersch requested that the Board work on an outline for work to be done on our Zoning Law and Master Plan during the Moratorium placed in effect for (9) months in December 2011. The Board suggested also working on any current Zoning Law Amendments that could be readily adopted into the code without much board work. Board decision was to possibly address this topic at our mid-month meeting.

A motion to adjourn was entertained by Chairman DeVinney and seconded by Board Member Mincer. Motion carried with all Board Members present in favor.

Meeting adjourned at 8:45pm

Minutes submitted by L. Lersch/Revisions to LSammy5@frontiernet.net