

THE TOWN OF MIDDLESEX

PLANNING BOARD

Minutes – March 7, 2012

Board Members present: Marty DeVinney, Chair; John Gilbert, Lynn Lersch, Robert Mincer, Bruce St. Lawrence

Others present: Dawn Kane, Town Code Enforcement Officer, Jason DeKouski, Debbie Samardjian, Gary Hoffman, Shanna Williams, Vicki Fumia, Marilyn Tedeschi, Don Miller, Calvin Ames, Charles Sheets, Timothy O'Connor, Andrew Komarek, Tom Fromberger

Agenda: Application #102011-SPR: Mr. Donald Miller, representing agent for Ms(s). Vicki Fumia & Marilyn Tedeschi requesting a private driveway for a single family residence at 991 Old Vineyard Rd., Middlesex (A/R); Application #020512-SPR: Ms. Shanna Williams, representing agent for Dr. Timothy O'Conner & Ms. Avice O'Connell requesting an addition to an existing Single Family Residence at 1492 South Lake Rd., (LR); Application #091211-SPR: Mr. Tom Fromberger, representing agent for Mr. Andrew Komarek submitting map revisions on a preliminary plat review for a Major Subdivision of (4) lots on East Lake Rd., Middlesex (LR)

Meeting was called to order at 7:15pm

1. Applicant Mr. Don Miller requested the board's review of Application #102011-SPR. Ms. Kane, CEO, summarized the application stating the Single Family Residence and its septic design had previously been approved. An onsite visit including members of the Planning Board, the Town Board concurred that driveway installations on private driveways off of pre-existing private roads would be reviewed on a case by case basis. It was also concurred that this site would be reviewed by the Planning Board for determination after meeting requirements in our Road Standards, and Private Driveway Laws. It was agreed a 12 in. by 20 ft. entrance culvert should be increased to 24 in. by 40 ft.; a 4 in. culvert near the residence should be increased to a 12 in. and angled to better handle storm water on its' existing width and slope. The width of the driveway would be increased from 10 ft. to 12 ft. and pitched toward the uphill slope. Six inches of crushed stone would be added as base. More would be added after the house was constructed if needed to maintain the depth. The widened driveway would amply handle emergency vehicle access as concurred by Board member Robert Mincer after he made an onsite visit.

Mr. DeVinney entertained further discussion and there was none. A motion was entertained by Chairman DeVinney. Board Member St. Lawrence made a motion for the Board's approval of the request and Board Member Mincer seconded the motion. Motion carried with all Board Members present voting in favor.

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 Lersch made a motion to accept the declaration of negative impact to the surrounding neighborhood and Board Member St. Lawrence provided a second. The motion carried with all members present in favor.

2. Applicant Ms. Shanna Williams requested the board's review of Application #020512-SPR. Ms. Kane, CEO summarized the application as a pre-existing and non-conforming parcel including two houses. One of the houses, near a gully was within the side set-back of 15' and may need a variance to build an addition extending the porch area. Due to the fragile site and concern regarding access to the site it was requested by the Code Office that Site Plan Review be applied to this application.

Ms. Williams, Architect for the O'Connor/O'Connell property, had submitted (2) sets of plans for review. One addressed the proposed variance request if needed, and one addressed erosion control and a survey map including the proposed addition.

Roof pitch and cantilevered alterations to the design of the existing porch, and enlargement of a bedroom were reviewed, discussing that a large part of the work was grandfathered in.

Contractor Al Voss included a construction sequence which was reviewed and it was requested by the Board that it be strictly adhered to. The Board requested all construction material to be delivered by nothing larger than a (6) wheeler because of the 9 ft. width of the gravel driveway at lake level. It was discussed that footings would be hand-dug for the (1) ft. by (2) ft. addition.

The Board entertained a motion made by Mr. John Gilbert to approve the plans which included a variance request and Mr. St. Lawrence seconded the motion. The application will be heard for area variance review by the ZBA in early April. All Planning Board Members present voted to approve as reviewed and the motion carried.

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 Gilbert made a motion to accept the negative declaration and Board Member Mincer provided a second. The motion carried with all members present in favor.

3. Applicant Mr. Jason DeKouski requested determination by the Planning Board of Application # 122011-SPR for a permit to store boats and trailers as part of a commercial business - Finger Lakes Boats/Repair on property owned by Mr. Terry DeKouski at 843 Elwell Road, Middlesex. (A/R). Mr. Jason DeKouski stated that it was his intent to ultimately store a maximum of 250 boats onsite. Current quantity of 38 boats has raised some concerns from neighbors. Under current zoning, this request is permitted in the A/R Zoning District when Special Conditions are complied with. The Planning Board visited the site on Feb. 18th to review options of resolve referencing neighbor concerns. Special Conditions involving the height of a buffer strip with natural plantings, as well as alternative options in placement of boats, quantity of boats, whether driveway entrance radius was wide enough to provide full egress/ingress of trailered boats without infringement on neighbors' parcels, and any concerns of fluid/oil/gasoline leaking from stored boats on property, were considered and discussed with applicant per zoning requirements under Section 501.1 and 501.14. It was determined by the Planning Board

to contact Applicant to schedule a May site visit and board review to better determine the following options:

- a. A better selection of site selection that may be more conducive for all concerns.
- b. The height of a visual berm to fully buffer the maximum quantity of proposed boat storage in the best manner.
- c. The application will be placed on the May Planning Board agenda to further review the site, and Applicant will be contacted by the board.

Mr. DeKouski stated he would be removing the boats one at a time from possibly April 1- June 30th between 9am and 4pm, Monday through Friday only. There was a possibility of a delay in completion of this task which depended on the Canandaigua Boat Launch renovation.

4. Applicant, Mr. Tom Fromberger, P.E. from the MRB Group and representing agent for owner, Mr. Andrew Komarek, Application #091211-SPR requesting site review of map revisions to site plan on a preliminary plat for Major Subdivision of (4) Lots on East Lake Road, (LR)

Mr. Fromberger presented map revisions to (2) sets of site maps, presented by the MRB Group, with intent for recommendation of approval from the Planning Board to proceed to the Zoning Board of Appeals with a Special Use Permit Application based on the (2) two submitted plans, serving a Major Subdivision, comprised of (4) proposed building lots with dwellings, in the Steep Slope area of East Lake Road.

Mr. DeVinney, Chairman of the Board referred to “Preliminary Approval” as defined by Town Law as “Preliminary Plat Approval” stating it would entail the submission of a full EAF assessment SEQR before a plat approval was finalized and stated that both plans were not yet ready for Planning Board Preliminary Approval. He questioned whether it was procedurally correct for the application to proceed to the Zoning Board of Appeals at this juncture.

Mr. Fromberger stated that in reference to the Private Driveway ZL Amendment for Special Use Permit Application that it doesn't state that the Board has to approve of any of the submitted plans, only that (2) sets have to be submitted and then proceed to the ZBA, with a Planning Board recommendation to accompany the application.

After a lengthy discussion of current laws and thorough review of submitted plans, the Planning Board applied standards for reasonable argument for not approving either of the submitted plans due to concerns of erosion control, disruption of soil, the importance of safe and feasible emergency vehicle access to the proposed (4) building lots; a site visit by town, planning members, and fire department volunteers; a review of Town requirements under current law for width, slope and radius of the single driveway approach plan; advisement of alternate sites having less than 40% for the proposed building sites referencing intent of current draft Steep Slope Law in process and applying

documentation of many professional outside reviews citing best management practices of development within the Finger Lakes watershed, particularly citing the deterioration of water quality of Canandaigua Lake due to site development and disruption of fragile soils on steep slopes.

Mr. Fromberger stated that he was looking for approval and recommendation of the Planning Board to proceed to the Zoning Board of Appeals, based on the submission of the (2) site plans.

Marty Devinney asked the board if there was any further discussion.

Board Member Gilbert stated that in his opinion, and after reviewing the (2) preliminary plans submitted, on an environmental premise, he would recommend the plan with (4) parking spaces along the county road, East Lake Road over the plan showing a common driveway serving (4) lots because it contained less soil disruption and was significantly less environmentally intrusive; however since the plan had “parking spaces” instead of “driveways” it did not, in his opinion, to invoke the Special Use Permit Application and the single driveway shared driveway concept.

Board Member Lersch stated in her opinion, due to the health, safety and welfare of the intended owners of the (4) proposed dwellings cited on this Site Map, she could not recommend the plan with the (4) parking spaces on East Lake Road, as it was not feasible because of the steep slope to merely have a 300 ft., grass path to each dwelling from the road for the purpose of hauling fire hoses down the incline to the homes or carrying a gurney up the hill to an ambulance. She advised that this plan should be further reviewed by County Highway Supervisor David Hartman due to its roadside proximity to seasonal highway maintenance.

Mr. Fromberger stated that both plans, in his professional opinion, met all current Town and State Laws for Fire & Safety Codes, both had the same amount of soil disruption and both shared the same environmental impacts to the existing land.

Board member St. Lawrence and Mincer both stated they were in agreement with Board Member Gilbert’s previous statement of recommendation.

Property owner Mr. Komarek requested the opinion of the Board if they would ever consider the shared driveway approach serving the (4) proposed lots in the future. The Board stated that if the shared driveway concept was resubmitted as a more complete plan with the adequate radius turn, slope and grading to comply with current Town Laws that the Board would consider it, but neither plans submitted were currently complete enough to make that determination presently.

Mr. Fromberger thanked the Board for its review and asked for the Planning Board’s recommendation to proceed to the Zoning Board of Appeals.

Board Member Gilbert recommended a motion stating that the first of the two submitted plans, referring to those submitted on February 14, 2012 as J1 and J2, with the (4) parking spaces was more environmentally sensitive.

Board Member Lersch stated that she would like to include in the motion that the recommended plan should be resubmitted to the County Highway Supervisor for approval. A letter from Mr. Hartman dated August 2011 was offered for review by Mr. Fromberger, stating Mr. Hartmans' approval for the single driveway approach over the (4) single driveways to each dwelling.

Marty asked for the motion to be repeated.

Board Member Gilbert stated that he would recommend that the submitted plan with the (4) parking spaces had the least negative impact on the surrounding land on all considerations when considering the submitted development alternatives including an upgrade to a single common private road and widening the radius at the first turn.

Board Member St. Lawrence seconded the motion. There was no further discussion and Board Members DeVinney, Gilbert, St. Lawrence and Mincer voted in favor of the motion. Board Member Lersch declined a vote.

Chairman DeVinney stated that the Board would send a recommendation as stated to the ZBA for their April 3rd hearing.

Mr. Fromberger repeated the motion stating that this was the Planning Board's recommendation to the Zoning Board of Appeals to proceed in requesting Zoning Board of Appeals granting of a Special Use Permit.

Site Plan Reviews closed at 9:10pm

Other Business :

The Planning Board completed a SEQR full assessment EAF for the Draft Local Law for Regulation and Protection of Steep Slopes in the Town of Middlesex. Revisions to Section #12 under Conditional Uses on Steep Slopes of 40% or More were made to address revision to the law for allowance of stairs or tram to be constructed on property providing access to lake shore property in the Lake Residential District and to determine project bonding requirements in Section 16 to be a minimum amount considered by the Board on a case by case basis.

A motion was made by Board Member Gilbert to approve the proposed revisions to the Draft Law. Board Member Mincer seconded the motion and all Board Members present voted unanimously in approval.

Resident Gary Hoffman, submitted to the Planning Board, a copy of the Supreme

Court decision to award the Town of Middleton and Dryden the case referencing a Ban on Hydro-Fracking, challenged by the Natural Gas Companies involved and based on the premise of “Home Rule.”

A motion to adjourn was offered by Board Member Gilbert and seconded by Board Member Mincer. All Board Members present voted in favor and the motion carried. Meeting adjourned at 9:45pm

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