

# **TOWN OF MIDDLESEX**

## **PLANNING BOARD**

Minutes – April 4, 2012 7pm

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

Others present: Ms. Dawn Kane, CEO; Mr. Phil Greene, Mr. Donald Sheive, Mr. Rocco Venezia, Mr. Mark Lapari, Mr. Donald Bow, Mr. Soumen Das, Mr. Gary Hoffman, Ms. Debbie Samardjian

Agenda: App. #031412-SPR: Mr. Phil Greene of Worden Hill, Inc./Site Plan Review for construction of an addition to an existing dock in the (LR District); App. #031512-SPR: Mr. Steve Faulkner Excavating, Inc./Site Plan Review for demolition of an existing Single Family Residence (LR District); App. #21010-SPR: Mr. Rocco Venezia, /Site Plan Review for the Highlands Group of Canandaigua, LLC Final Plat Approval of a Minor Subdivision at 556 E. Lake Road, (LR District)

Approval of Minutes: Draft Minutes for 2/1 were approved. Draft Minutes for 3/7 under review.

Meeting came to order at 7:10pm

Chairman DeVinney opened the floor for the following Site Reviews:

1. Application # #031412-SPR/Mr. Phil Greene of Worden Hill, Inc. representing the owners Mr. & Mrs. Patrick McCormick to construct an addition to an existing dock at 356 East Lake Road - (3) parcels pieced together by prior subdivision.

Mr. Greene presented the Board with thorough documentation of the project, stating that the proposed deck area would be 1778.5 sq. feet, given the allowed amount of adding 200 sq. feet for each of (3) adjoining parcels, which under the UDML (rev. June 2011) gave them 1880 sq. feet. The construction of a new set of stairs from an existing tram to the deck was also discussed as part of the project to gain safe access to the proposed dock.

After a short discussion referencing allowable amounts under the UDML as it pertained to an existing upland shed structure and what was allowed for the (3) parcels, the Board agreed that the amount proposed was in compliance with the law. It was stated by Mr. St. Lawrence that a reference to the (3) adjoining parcels should be noted on the land deed for future reference if a parcel was ever considered to be sold off. Mr. Greene stated he had referenced this in the last sentence of his intent letter and would reference it in the deed information for County filing.

The Board requested further explanation of the type and process of installing (6) permanent pilings into the lake bottom and received detailed description of the process used by Worden Hill Inc. and it was stated that all construction would be completed by water with a barge.

The Board completed a SEQR assessment for this project, 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 as stated and Board Member St. Lawrence provided a second. The motion carried with all members present in favor.

Board Member St. Lawrence moved to approve of the application as presented and Board Member Mincer seconded the motion. All Board Members present voted in favor and the motion to approve the application carried.

2. Application #031512-SPR: Steve Faulkner Excavating, Inc., representing agent for Mr. & Mrs. Brett Utter, requested Site Plan Review to be permitted to demolish an existing seasonal cottage at 964 South Lake Road in the LR District.

Ms. Kane, CEO summarized the application stating that Mr. Faulkner was not present to review with the Board the proposed project, however she would answer any questions that the Board might request.

It was stated the property at 964 South Lake Road had withstood a fire in early winter. Owners, Mr. & Mrs. Brett Utter of 966 South Lake Road wished to demolish the present cottage, leaving it vacant for the present time. The existing septic would be pumped and removed. Demolition material would be removed, clean fill brought in and a grading and replanting schedule with existing plants and bushes would complete the project.

The Board requested further detail on the egress/ingress off of South Lake Road without an existing driveway, existing front yard setbacks from the lake and the projected completion date of the demolition. It was stated that the cottage was 50-60 feet from the lake. The demolition was scheduled to take 2-3 days to complete, and they would be waiting for fair weather to commence demolition in approximately 3-4 weeks. Contractor would discuss the egress/ingress on road shoulder with Town Highway Supervisor Reifsteck for best approach to project.

The Board stated that due to the pre-existing clause to current zoning and the non-conforming setbacks to current code, if the Utter family were to rebuild in the future, any new construction would have to comply to current zoning setbacks and requirements, hence losing their right to be grand-fathered. Ms. Kane, CEO stated the owners had been advised of this.

The Board completed a SEQR assessment for this project, 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 declaration as stated and Board Member Mincer provided a second. The motion carried with all members present in favor.

After a brief discussion, Board Member Mincer made a motion to conditionally approve the demolition for permit stating the following conditions:

1. Disturbed ground onsite must be stabilized and replanted immediately after final grading was completed, due to its' close proximity to the lake and seasonal rain.
2. Daily care to road clean-up was essential due to returning summer residents.
3. Advisement must be procured from Highway Supervisor Reifsteck for appropriate shoulder access to site off of South Lake Road because the site did not have driveway access to the site.

Board Member Gilbert seconded the motion as stated. Motion carried with all Board Members present voting in favor.

3. Application #021010-SPR/ Highlands Group of Canandaigua, LLC represented by agent, Mr. Venezia of Venezia & Associates. Site Plan request was for Final Plat approval of a (3) lot Subdivision granted by Special Use Permit to construct a private road to service (3) building sites at 556 East Lake Road in the LR District.

The Board stated that Lu Engineer had given final release to the project and the first phase of construction would be the installation of the private road.

Ms. Kane, CEO stated that County Highway Supervisor Hartman's office had stated that a permit to install the driveway off the County Road was not required after a site visit took place over the winter.

Board Member Lersch requested that a construction schedule be given to Mr. Hartman, County Highway Supervisor so that he would be aware of when work onsite was to commence.

Mr. R. Venezia, agent stated that all excavation would be done by Victor Excavating and Mr. Rocco Venezia would oversee the project. It would be completed within a 2 week time frame, weather permitting and replanting would commence the third week. Double silt fencing barriers would surround the equipment staging. This stage of the project would include tree removal, land grubbing, installation of check dams, cutting of slope grades with immediate stoning in all disturbed areas. There would be no fill or hauling soil offsite as there was very little topsoil in this area. Lumber from trees cut would be picked up by trucks, and mulch would be used onsite. Road clean-up would be addressed daily.

Ms. Kane, CEO requested a pre-construction meeting onsite with contractors.

The Board again reviewed the original SEQR and a motion to the SEQR as completed and the Final Plat for the Minor Subdivision as presented was made by Board Member St. Lawrence and seconded by Board Member Mincer. All Board Members present voted in favor and the motion to approve the application carried.

#### Other Business:

Draft Minutes for February 1 and March 7:

Board Member Gilbert made a motion to accept the draft minutes for February 1<sup>st</sup> and further time to review draft minutes for March 7<sup>th</sup> was requested by the Board. Board Member Mincer gave a second to the motion. Motion carried with all Board Members present in favor.

Ms. Kane, CEO stated an appeal was filed by Mr. Andrew Komarek by his attorney, Mr. Robert Place to review Ms. Kane, CEO's decision that the Komarek Major Subdivision application did not meet the criteria established by Town Law to proceed for a Zoning Board of Appeals Special Use Permit.

Chairman DeVinney updated the Board of progress on the Draft Steep Slope Law. He stated that a review by the Yates County Planning Board on March 26<sup>th</sup> advised further work should be done to include resident input before approval took place. Such a meeting was requested by residents Mr. Robert Johnston and Mrs. Ann McCormick. A March 3rd meeting with these representatives from the community and some members of the Planning Board, Zoning Board of Appeals, and members from the Canandaigua Watershed Council shared input and drafting of possible new revisions to make a more cohesive document.

Board Member Lersch stated that a Newsletter describing steep slope requirements broken into (3) categories of slope would be sent to all residents of the town, once a final draft of the law was ready. A period of review would precede the Town Board setting of a Public Hearing to further review the law.

Chairman DeVinney informed the Board of an article compiled for the Canandaigua Watershed Council Newsletter referencing the environmental intent for the Draft Steep Slope Law and its' beneficial impact on Canandaigua Lake, our greatest resource.

Mid-month meeting: Agenda to be a review of Zoning Law Amendments.

Hydro-Fracking – Moratorium and possible future work with the Slottje's Land Use Lawyers.

Public Input:

Resident Mr. Gary Hoffman presented on a new process called "Gas Fracking" that was being leased in parts of Tioga County in the Southern Tier. This new process which has been used experimentally in Canada by vertical drilling, uses a combination of propane and butane to frack shale deposits underground instead of water and a composite of chemicals as in Hydro-Fracking. Mr. Hoffman spoke of the legal concerns of whether this new process could bypass our Moratorium, Zoning Law and Master Plan currently in place. It now is being attempted in Tioga County with horizontal drilling and is a huge concern. Mr. Hoffman would like to review this with Supervisor Multer over the next week.

Chairman DeVinney will discuss this with Supervisor Multer and Town Attorney, Alaine Espenscheid to review.

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

Meeting adjourned at 9:15pm.

Minutes submitted by L. Lersch/Revisions to [lynn.lersch@gmail.com](mailto:lynn.lersch@gmail.com)