

TOWN OF MIDDLESEX
PLANNING BOARD

Minutes – Wednesday, November 7, 2012, 7pm

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

Public Present: Mr. Rocco Venezia, Ms. Wendy Meagher, Ms. Lori Farr-Rusin, Mr. Jeremy Fields, Mr. Tim Murphy, Ms. Susan Carman, Mr. Ted Carman

Agenda: Application #060612-SPR/Wendy Meagher, P.E. representing Mr. David Rusin and Ms. Lori-Farr Rusin requests Site Plan Approval for new construction of a Retaining Wall and proposed driveway parking area at 1217 S. Lake Rd., (LR); Code Enforcement Officer brings project advisement on current pending applications.

Chairman DeVinney opened the work session at 7:08 pm.

Approval of Draft Minutes for 10/03 and 10/17/12.

Board Member Gilbert moved to approve and Board Member Mincer seconded the motion. It carried with all Board Members present voting in favor.

1. **Application #060612-SPR/Ms. Wendy Meagher of Meagher Engineering**, representing agent for owner(s) Mr. David and Mrs. Lori-Farr Rusin of 1217 So. Lake Road, stated that this application had received Area Variance approval in August for the front yard setback, (re: ZBA Application #05312-Z), and now her client was requesting determination tonight of Site Plan Review from the Planning Board.

Referring to Lu Engineers 7/31/12 review, Ms. Meagher stated she had addressed everything in a letter to the Planning Board. Discussion focused on points still in question that were listed in the Town Engineer review. These included: #9: Site Map Erosion Control notes did not state, as requested, the specific seed formula mix of temporary and permanent grass seed mix to be used at project completion. Also the size of the “large stone” mentioned in the Site Map notes should state the size and type of the Rip Rap to be used so that the contractor would know what to put down. Ms. Meagher stated that these revisions were appropriate and would be forth coming.

After a short discussion, all Board Members present decided in favor of awaiting determination until all outstanding information pending could be sent to Lu Engineer and Final Release could be obtained. The Board would also determine the SEQRA declaration at that time.

2. **App. #080212-SPR/Mr. Jeremy Fields, representing agent for Mr. Craig Jerabeck LLC** of 90 East Lake Rd., (LR)

Board discussion focused on the 60 ft. distance from shoreline, the allowed square footage of 907 square foot permanent dock was based on 226.8 linear feet at the shoreline plus the amount allowed for steep slope hardship was under the 1120 sq. ft. allowed.

After a short discussion, the board approved the application conditionally with requirement of an “As-Built” Site Plan submitted at project completion and all structures on the Site Map to be relabeled correctly.

The Board completed a SEQR assessment of the project and voted to determine that the proposed action will not result in any significant adverse environmental impacts, providing reasons to support this determination. Board Member Mincer made a motion to accept the negative declaration as presented and Board Member St. Lawrence seconded the motion. The motion carried with all Board Members present voting in favor.

A motion to approve the application with conditions as presented was offered by Board Member Lersch and seconded by Board Member Mincer. The motion carried with all Board Members present in favor.

3. Application #071112-SPR/Fields Construction, as representing agent for Mr. John Meagher of 1255 South Lake Rd., (LR), requests Site Plan approval for replacement of an existing stone driveway retaining wall at 1255 So. Lake Rd., (LR)

After a brief discussion, the Planning Board stated that this application, as presented, would need a variance for side setback concerns because of the location of the retaining wall at roadside, was right on the neighbor's property line to the south.

Mr. Fields of Fields Construction requested that the Board consider approving the application with a map revision showing the retaining wall in question pulled back from the property line 15' to expedite the project's start date.

The Board moved to approve the application with the following requested conditions:

- a. As-Built engineered stamped plans showing the retaining wall pulled back to the 15' side setback requirement to be submitted at project completion.
- b. A notice of agent referral sign-off was also requested.

This motion was made by Board Member Gilbert and seconded by Board Member Mincer. The motion carried with all Board Members present in favor. The Board will complete the SEQR once the application is complete with all pending data submitted to the Office of Code Enforcement.

Code Enforcement Office Advisement:

The Code Enforcement Officer, Ms. Kane reported on pending Planning Board Applications, regulated by the Uniform Docks and Mooring Law, and currently under review and advisement by outside resources – NYS DEC and Mr. Kevin Olvany, Ms. Maria Rudzinski to determine original intent of the law as it pertained to pre-existing shoreline cribbing.

Discussion focused on whether or not "earth or concrete-filled" crib piers constructed around the Canandaigua Lake shoreline and pre-existing to the June 2011 Adopted Canandaigua Uniform Docks and Mooring Law, should be measured into the square footage allowance for square footage of docks. Some of these crib piers are built beyond the High Mean Water Line and some were built on the existing shoreline. The concern from the Office of Code Enforcement is the point of measure for the 60 ft. from the HMWL, when these piers are part of the equation. Another question to be reviewed was the land use considered in these situations. In some cases it appeared the land use of these earth-filled crib varied. Some were used for boat tie-ups (dock) and some as an extension of a front yard at shoreline. Another factor was that water passed underneath some and in some it became a solid appendage from the existing shoreline. The part these piers play in the formula used to determine square footage allowance becomes an important interpretation of the UDML as written.

Contractor, Mr. Jeremy Fields referred to sections of the law stating that it was his opinion the Town of Middlesex had jurisdiction and could make the determination.

Mr. Rocco Venezia of Venezia & Associates stated that he felt that only the NYS DEC could make this determination about whether these shoreline structures would be defined as a pier/crib or would they still be considered a dock?

Discussion of pier definition focused on whether these were owned in part by the state and in part by the owner, and whether the NYS DEC had transferred interpretation to the individual townships surrounding Canandaigua Lake when allowing the Canandaigua UDML its authority.

The Board after more review stated that it would confirm the Code Enforcement Officer's request for involvement of the NYS DEC in an interpretation and final determination. A further review by Mr. K. Olvany and Ms. M. Rudzinski for interpretation of the original intent of the law was advised as necessary in determination of these pending applications.

A motion by Chairman DeVinney and seconded by Board Member St. Lawrence was voted on with all Board Members in favor of holding the application's determination and SEQRA declaration until outside resources could better interpret what is to be allowed in the formula stated in the UDML and how it applies in this application.

This motion affected the determination process in the following applications:

- a. App. #080112-SPR/Mr. Jeremy Fields, representing agent for Mr. & Mrs. Tom Masachi of 640 Fisher Rd., (LR) requests site plan approval, referencing the UDML, to construct a 700 sq. ft. Permanent Dock & (2) boat hoists.
- b. App. #080312-SPR/Mr. Jeremy Fields of 1443 So. Lake Rd. (LR)
- c. App. # 082212-SPR/Fields Construction as representing agent for Mr. William Dolan of 648 Fisher Rd., (LR)
- d. A dock project to be constructed at 666 Fisher Road (LR) for a Mr. Fink brought to the board on advisement by the Code Enforcement Officer.

Chairman DeVinney asked for Board approval to send the Komarek SPDES Permit to the NYS DEC for their application determination stating the Planning Board to be Lead Agency on this application. Since the application was a coordinated review, the 30 day deadline applied and the DEC would need the SEQRA for determining their application for permit. A motion to approve this action was made by Board Member Lersch and seconded by Board Member Gilbert. All Board Members present voted in favor.

Ms. Kane, CEO updated the Planning Board on the current status of the Elli project at 1091 South Lake Road. Ms. Kane also appealed to the Board for the necessity of a request for notification for all septic installation. Currently she receives notices of septic approvals; however she does not receive the date of installation. This information would help to expedite the permitting process for installation of septic within the Town of Middlesex. The Planning Board agreed that this would help to eliminate installations occurring without a permit, once approvals were obtained from the NYS DOH and the Canandaigua Watershed Commission.

Board discussion on outstanding vouchers/invoices for Lu Engineers, Town Engineer

A tentative date of December 12th was set for a Tri-Board meeting referencing the current Draft Steep Slope Law.

A motion to adjourn was offered by Board Member Gilbert and seconded by Board Member Lersch.

The motion carried with all Board Members present voting in favor.

Motion adjourned at 9:38pm.

Draft minutes submitted by L. Lersch/revisions to: [L.Sammy5@frontiernet.net](mailto:LSammy5@frontiernet.net)

Minutes approved on: December 5, 2012

