

**TOWN OF MIDDLESEX**  
**PLANNING BOARD**

Minutes – Wednesday, April 2, 2014 - 7pm

Board Members present: Marty DeVinney, Chair; John Gilbert, Lynn Lersch, Bob Mincer, Bruce St. Lawrence; Dawn Kane, CEO ; Ms. Wendy A. Marsh, Partner with Hancock Estabrook LLP

Public Present: Mr. Andrew Komarek, Mr. Tom Fromberger, MRB Group; Mr. Vivech Thiagarajan, Mr. Mark Laese, representing agent for Mr. Robert Bailey; Mr. Ron Davis, Mr. Tim Murphy, Keith Marten

Agenda: Site Plan Reviews:

App. # 090211-SPR/Mr. Andrew Komarek, represented by Mr. Tom Fromberger, P.E. from the MRB Group, review of submitted Draft Scope for parcel, Tax Map ID #2.03-1-2.1; App. # 31614-SPR/Mr. Leon Button Jr. of 5687 North Vine Valley Rd., requests Site Review for a Minor Subdivision of property, Tax Map ID # 12.04-1.8 to subdivide 5 acres from an existing parcel (AG/R); App. # 031714-SPR/Mr. Keith and Mrs. Kira Marten of 6056 South Vine Valley Rd., requests Site Plan Approval to subdivide a 14.034 acre parcel at 5990 South Vine Valley Road into Lot 1A to become 9.034 acres and Lot 1B to become 5.000 acres. Tax Map ID # 12.03-1-20.1 (LDR); App. #100113-SPR/Mr. Robert Bailey represented by Mr. Mark Laese and Marathon Engineering Inc. requests Site Plan Review for improvements to a parcel located at 478 East Lake Road, on County Rte. #39, Tax Map ID # 11.27-1-1(LR); App. #11414-SPR/Mr. Dan & Mrs. Kiki Mahar, represented by Mr. R. Jon Schick, AIA requests Site Plan Review for new construction of a three story garage on east side of 968 South Lake Road, Tax Map ID # 21.33-1-2, (LR)

Chairman DeVinney opened the floor for the night's meeting agenda at 7:04 pm.

1. App. #090211-SPR/Komarek Major Subdivision, represented by the MRB Group.

Chairman DeVinney introduced Attorney Ms. Wendy Marsh asking her to summarize the Planning Board's review of the Komarek Application and its' current SEQRA process.

Ms. Marsh gave a brief history and provided a timeline for the Scoping Process, which resulting from a Positive Declaration of a completed SEQRA FEAF, issued by the Planning Board on April 3, 2013. The next step in the SEQRA process was for the MRB Group to submit a Draft Scope for the purpose of addressing articles of environmental concern identified in Part #3 of the FEAF. The MRB Group submitted its Draft Scope on March 12, 2014. The Town of Middlesex Planning Board will invite public comment by holding a Public Hearing on April 23, 2014 at 7pm prior to completing its Final Scope document. A copy of the Draft Scope will be sent to all Interested and/or Involved Agencies inviting comment. A Draft FEAF Statement will then be completed and it is estimated that the Town of Middlesex will complete their Final Scope by the regularly scheduled meeting on May 7<sup>th</sup>. A review will then occur at the June Planning Board Meeting. A period of 30 days will be given for public comment which shall take us through July. The final step in the SEQRA process will be to prepare a Final Environmental Impact Statement (EIS) sometime in August 2014 which will determine the final recommendation by the Planning Board to the Zoning Board of Appeals on the Komarek project. It will then be determined by the Zoning Board of Appeals, if the submitted plans for private road access to the proposed four (4) Lot Subdivision, will be granted by Special Use Permit to allow a private road in the Lake Residential District of the Town. The Zoning Board of Appeals will note the SEQRA findings in order to make this determination, possibly in September, and the application then goes back to Yates County for their Planning Board review, and prior to the Town Planning Board determination for Final Site Plan Review.

Ms. Marsh explained the Town of Middlesex will be receiving assistance in completing this lengthy process by a third party Engineering Firm and offered proposals to consider from both LaBella and Stantec Engineering Firms. Ms. Marsh stated that the costs for both proposals were similar. After a short discussion between the Planning Board and the representing agents for Mr. Komarek, Board Member Robert Mincer made a motion to approve the proposal with Stantec and Board Member Gilbert offered a second. The motion carried with all Board Members present voting in favor. This proposal and a contract will be forwarded to the Town Board to finalize. Ms. Wendy Marsh will coordinate a meeting with Stantec's contact, Mr. Michael Flannigan and Board Member Bruce St. Lawrence as Planning Board Liaison.

Ms. Marsh stated she would set up the applicant's contract with Stantec and would provide the applicant with all hourly rates and a cost estimate for each of the steps, adding a clause "not to exceed" to protect the applicant. Town Engineer, Lu Engineers will decide how much the two firms may want to work together and sign off with the applicant as well. Lu Engineer will also be kept updated throughout the process as they will be valuable to the town in developing the Draft EIS.

Board Member Gilbert requested clarification on part of the application process which he felt had as yet not been completed by the MRB Group, representing Mr. Komarek on the proposed Major Subdivision. The Town Law allowing Private Roads in the Lake Residential District required (2) plans to be submitted with the application in order to apply for the Special Use Permit. One plan was to show (4) individual access cuts to each of the (4) lots. The second plan was to show (1) access point and prove that it could be constructed to serve all (4) lots without negative environmental impact and at the same time comply with all current Zoning and Town Regulations. It was his recollection that MRB Group had last submitted a plan for a single access to the Subdivision along with a plan for (4) parking spaces on East Lake Road. They had provided access to the proposed building lots by either stair or tram to each of the designated building lots. He stated that it was his understanding of the law that this is where the Planning Board had left off and so was inquiring as when it would be appropriate in the process to address and discuss this.

Mr. Fromberger stated it was his understanding that the Planning Board had accepted the "Shared Driveway" plan with one driveway to access all four lots. Ms. Kane stated that the terminology used here should not be "shared driveway" as in the law it referred to "Private Road." Ms. Marsh interjected that to answer both inquiries, that according to the process, nothing had as yet been accepted from anything that was submitted. The application was still in a preliminary stage still to be determined, and that all of this would be flushed out in a natural flow of events in the Scoping Process and will be addressed in the Final Scope.

After a short discussion, the Board proposed to set a Public Hearing on April 23<sup>rd</sup> at 7pm. The Engineer contracted will be present and will receive comments. Verbal and written comments will be accepted until Monday, April 28<sup>th</sup>.

A copy of the Draft Scope with a cover letter to all Interested and Involved Agencies inviting comment written or verbal on April 23<sup>rd</sup> for the Public Hearing. Agencies noted to be involved in granting approvals would be: The Town's Zoning Board of Appeals who has authorization to grant the Special Use Permit for the application; the NYSDEC who will be issuing a SPDES Permit; the NYSDOH and the Canandaigua Watershed Inspector for Septic Design approval; the Yates County Planning Board and the Yates County Soil & Water Conservation District who will be reviewing the application; and the Canandaigua Lake Watershed Association and the Canandaigua Lake Watershed Council; Lu Engineer, Town Engineer and the applicant as well as anyone else who requests copies would receive copies as Interested Parties. Written comments will be accepted through April 28<sup>th</sup> and be addressed to: Mr. Martin DeVinney, Town of Middlesex, PO Box 147, Middlesex NY 14507.

The following "Resolution" was offered by Board Member St. Lawrence and seconded by Board Member John Gilbert, and carried by all Planning Board Members present voting in favor. This vote is reflected in the attached Resolution and was read into the official minutes of the Planning Board by Attorney Ms. Wendy Marsh. This attached Resolution states in its entirety, the history of the Komarek Major Subdivision Application #090211-SPR on Parcel ID # 2.03-1-2.1 in the Town of Middlesex and takes effect immediately:

**“RESOLUTION OF THE TOWN OF MIDDLESEX PLANNING BOARD ACCEPTING A DRAFT SCOPE RELATIVE TO THE KOMAREK MAJOR SUBDIVISION PROJECT AND DECLARING ITS INTENT TO PREPARE A FINAL SCOPE PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT”** { This resolution may be accessed for review at Town Hall 1216 Main Street/Route #245, Middlesex NY or on the Town’s website under the Public Notice page: [www.middlesexny.org](http://www.middlesexny.org) }

2. App. # 31614-SPR/Mr. Leon Button, owner of property on 5768 North Vine Valley Rd, requests Site Plan Approval for a Minor Subdivision of property, Tax Map ID # 12.04-1.8 to subdivide 5 acres from existing parcel. (AG/R).After a brief summary by Code Officer, Ms. Kane and review of submitted documents, the Planning Board requested clarification of the total amount of acres the 5 acre parcel was being subdivided from. It was clear that there was sufficient road frontage required by current code, but the site map did not show the entire parcel or state the total acreage of the parcel as required.

Ms. Kane attempted contact however the owner could not be reached.

After a brief discussion, the Planning Board tabled the application the applicant could be present to answer inquiries prior to determination.

3. App. #031714-SPR? Mr. Keith & Kira Marten of 6056 South Vine Valley Rd., requests Site Plan Approval to subdivide a 14.034 acre parcel at 5990 South Vine Valley Road into Lot 1A to become 9.034 acres and Lot 1B to become 5.000 acres. Tax Map ID # 12.03-1-20.1 (LDR).

After summarizing the application in reference to current Code, Ms. Kane stated that Mr. Marten was creating a Flag Lot Subdivision and was in compliance with all area requirements for the Low Density Residential District. There is an existing barn on the property with a shared ROW with the neighbor. Ms. Kane then introduced Mr. Marten to answer any Board inquiries. Mr. Marten stated the barn was falling apart and he had plans to sell for acreage.

Chairman DeVinney stated that the Subdivision did not create an illegal lot and was currently configured as it was presented tonight, so this subdivision did not make it more non-conforming. Board Member Lersch made a motion to approve the Subdivision as presented and Board Member St. Lawrence seconded the motion which carried with all Board Members present voting in favor.

4. App. #100113-SPR/Mr. Robert Bailey represented by Mr. Mark Laese and Marathon Engineering Inc. requests Site Plan Review for improvements to a parcel located at 478 East Lake Road, on County Rte. #39, Tax Map ID # 11.27-1-1(LR).

Ms. Kane stated that Mr. Laese was in attendance for the review yet had not submitted anything new to the Board to review. He had brought a notation from Mr. Eric Johnson which had no indication of its reference.

A timeline was discussed between Mr. Laese and the Board, referencing the current status of the application and those items still needing resolve:

- Lu Engineer’s 2/26 review, Items #2 and #3.that Lu Engineer still needed from review of site map dated as revised on 2/12.
- Planning Board’s letter of 2/23, Item #2

Chairman DeVinney requested Mr. Laese to incorporate Mr. Johnson’s notation on the site map once revised. The Board will clarify application status with Lu Engineer to expedite the process.

5. App.#11414-SPR/Mr. Dan & Mrs. Kiki Mahar, represented by Mr. R. Jon Schick, AIA requests Site Plan Review for new construction of a three story garage on east side of 968 South Lake Road, Tax Map ID # 21.33-1-2, (LR)

Ms. Kane summarized that the Planning Board Letter dated 2/24 stated revisions requested. Those changes had been made revised on the site map and a pdf provided by email, incorporating those changes, was sent to the Code Office as requested. All revisions are designated clearly for Board Review.

Board Member St. Lawrence agreed to all noted revisions but stated the type of stone, size, quantity of stone used at all discharge points should be provided in a separate detail showing the gradation of the stone to dissipate the energy of water runoff for that area. He also stated that he would defer to the Town Highway Supervisor Mr. Reifsteck to determine the appropriate size culvert to replace the 12 inch one currently in place. It was noted that the impact of the upland berm work would significantly improve water runoff uphill to this culvert.

A SEQRA Short Form was submitted with the application and after review, the Planning Board determined that based on the information and supporting documentation provided, that the proposed action was a Type II action requiring no further action.

Board Member Lersch offered a motion to approve the application as presented with the stipulation that this last request, for notation of stone rip rap at all discharge points, would be forwarded by pdf file to the Code Enforcement office within a week. Board Member Gilbert provided a second and the motion carried with all Board Members present voting in favor.

#### CEO Report:

Ms. Kane brought a submitted application to the Planning Board for advisement. It was an application for a proposed project on South Lake Road for the Goldman's. Mr. Tim Murphy, from Field's Construction and acting agent for owners, the Goldman's was in attendance to answer any questions. In summary the proposed project entailed the addition of a Boat Hoist onto an approved permanent dock, and the addition of a cat walk to the Boat Hoist. Ms. Kane inquired of the Board if they would like to take it to full Site Plan Review as a structure or would they consider it a dock accessory.

After a short review of the site map and the Uniform Docks and Mooring Law (UDML), it was confirmed that there was a missing dimension from the outside edge of the accessory to the shoreline and from the exterior edge of the Boat Hoist's roofline.

After a short discussion, it was determined that the Application would need to be filed and given a conditional approval until the measurement was provided by Surveyor Rocco Venezia. Mr. Tim Murphy stated he would provide a hard copy to the Code Office tomorrow night during Ms. Kane's office hours.

Board Member Lersch offered a motion to approve on the condition that a hard copy was provided with the missing measurement as discussed to the Code Office prior to permitting. Board Member St. Lawrence provided a second. The motion carried with all Board Members present voting in favor.

#### Other Business:

Resident Ron Davis inquired of the Planning Board, for owner Mr. Eric Lindquist, his concern that the current status of use for the parcel of land known as "Document Reprocessor's" might change if the part of the building complex was leased in part or the whole to another. Mr. Davis stated that Document Reprocessor's had always stored vehicles and materials there, yet understood there was a section of code that stated if unused for a period of time, the use of the parcel could change. He inquired of where it was in the Zoning that stated if the building remained inactive for a period of time; the parcel's use may change.

Ms. Kane stated that the particular code he was referring to was Section #307 and proceeded to read it in its entirety.

Chairman DeVinney gave a short summary of, what occurred with the parcel, when Zoning was adopted in 1999 and reassured Mr. Davis that the parcel was grandfathered in when the Town Board legally changed the Zoning of the neighborhood to "Residential." He continued to reiterate that the use of these buildings on this parcel is limited to a low impact use due to its' close proximity to the residences surrounding it. To date, the Town has received

expressions of concern when a couple of business uses have expressed interest in leasing the buildings. The Town has to be careful in reviewing possible uses as not to grant permits to a use that would not be appropriate for the neighboring residences.

There is a separate issue the Planning Board has dealt with in reviewing applications for lease of these two buildings on the parcel. Subdivision of Lot 1 from Lot 2 has currently not been filed with the County, and there are (5) variances that Mr. Eric Lindquist would need to apply for in lieu of finalizing the subdivision and Chairman DeVinney encouraged that this be done to move forward with use of the parcel.

Mr. Ron Davis thanked the Board for their explanation of a complicated matter.

Chairman DeVinney opened the floor to discussion on a Full FEAF SEQRA statement that the Town Board as Lead Agency requested that the Planning Board review and complete for a Water Improvement Project for the Town of Middlesex.

Board Member St. Lawrence gave a summary of the project:

- a. The existing Town of Middlesex Water Tank located on Elwell Road will be demolished and a new tank built.
- b. Addition of a Pressure Reducer to accommodate appropriate water pressure for the Town of Middlesex as it flows from the Town of Rushville.
- c. Addition of Internet Communication Data for ongoing maintenance of the tank.
- d. Distribution Points redesigned to address appropriate use of water circulation in (2) areas:
  1. Lincoln Avenue – tie into main feeder
  2. Williams Street – tie into Lincoln Avenue and provide a second access point under the West River.

The Planning Board moved to complete the Long FEAF SEQR review as requested by the Town Board as Lead Agency. Chairman DeVinney offered a motion to begin the SEQR process and Board Member St. Lawrence offered a second. The Planning Board proceeded to complete the FEAF SEQR process as requested. It will be presented to the Town Board for review on Thursday, April 10<sup>th</sup>.

The Planning Board discussed the latest Steep Slope Revisions drafted by Mr. Kevin Olvany. Due to a cancellation of the Work Session on April 16<sup>th</sup> in lieu of a Public Hearing on April 23<sup>rd</sup> for Draft Scoping on the Komarek Major Subdivision on East Lake Road, it is evident that the next available time for review is most likely at the May work session regularly scheduled Planning Board Meeting. Board Member Lersch has provided all parties involved in the review process with hard copies highlighted with changes for individual review. The date for further review will be confirmed at some time in the future.

Next meeting: The Planning Board shall hold a Public Hearing to provide an opportunity for the required public participation through a public hearing to be held on April 23, 2014, at 7:00 p.m. and the acceptance of verbal and or written comments on a Draft Scope offered by the MRB Group, Inc., representing agents for the proposed Komarek Major Subdivision on East Lake Road, through April 28, 2014.

Motion to adjourn was made by Board Member St. Lawrence and seconded by Board Member Gilbert. Meeting adjourned at 9:45pm.

Draft Minutes submitted by L. Lersch/revisions to: [LSammy5@frontiernet.net](mailto:LSammy5@frontiernet.net)  
Minutes approved on 4/23/14

