

TOWN OF MIDDLESEX
PLANNING BOARD
Minutes

Wednesday, September 2, 2015, 7 pm

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

Others Present: David Moon of Marathon Engineering, Diane and Terry Elliott, Thomas Masaschi, Jared Lusk, Mark Bodensteiner, Tim Murphy, Richard Bolton, Ted Carman

Agenda: Site Plan Reviews and Draft Planning Board Minutes – August 5th

Site Plan Reviews:

1. Application # 061515-SPR-SSR / Mr. David Moon of Marathon Engineering, representing agent for Mr. Robert Stewart of 332 East Lake Rd., Tax ID #2.69-1-2 (LR) requests Site Plan Review for installation of a replacement tram in Steep Slopes.
2. Application # 092915-SPR-SSR/ Mr. David Moon of Marathon Engineering, representing agent for Mr. Thomas Masaschi of 640 Fisher Rd., requests Site Plan Review for the construction of an addition to an existing residence, improvements to a garage and a driveway in Steep Slopes, Tax ID #11.50-1-2.1, (LR)
3. Application #071515-SPR-SSR/ Mr. Terry E. Elliott, owner of property at 266 East Lake Rd. requests Site Plan Review for a lot line reconfiguration and a conceptual review for improvements to a single family residence, Tax ID # 2.61-1-4 and 2.61-1-5, (LR)

Acting Chairman Lersch brought the meeting to order at 7:01pm

Prior to the start of Site Plan Reviews, it was announced to those in attendance, a previously scheduled Public Hearing for tonight of the Komarek Major Subdivision DEIS, determined adequate for Public Comment, has been rescheduled for Monday, September 21st at 7pm. A Public Notice of the change will appear in the Daily Messenger and letters to all interested and involved agencies were mailed out with new deadlines. This announcement will be posted on our Town website as well.

Site Plan Reviews:

1. Application # 061515-SPR-SSR / Mr. David Moon of Marathon Engineering, representing agent for Mr. Robert Stewart of 332 East Lake Road, (LR):

Code Enforcement Officer summarized the application for the Board prior to presentation by agent, Mr. David Moon of Marathon Engineering stating that a concerned citizen had posed a question that pertained to one of our Town Laws referencing front yard (lakeside) setbacks for “tram systems” in Local Law #5 of 2008 which provided definition of a “tram system” as a structure and stipulated local and NYS Standards for the installation of trams in the Town. The point in question was that the Tram Law did not clearly define exemption of a front yard setback at shoreline from the High Mean Water Mark. Since the

intent of the law was to provide residents in steep slopes ability to access their shoreline by tram or stair systems, it had been an assumed exemption in the past. It was the Chairman's position on this particular application that since amending a Town Law was a lengthy process, the Planning Board would consider the Stewart application as a replacement tram and "grandfathered -in" until legal advisement was procured and prior to Final Determination from the Planning Board. Ms. Kane noted that any law that requires a variance needs to be changed and the Town will proceed as quickly as possible.

Ms. Kane stated that another pertinent change occurred involving the Stewart application during the time of the County reviews, and proceeded to state the Yates County Soil & Water Conservation District had made a policy change to discontinue reviews on "tram systems," the Town is pursuing the possibility of including trams as an exemption from County Planning Board review and considering them as an accessory structure to a dwelling.

Resident Richard Bolton stated his position on the Tram Law was one of agreement with the Town Law and felt it was intended to protect both property owners and neighboring properties hence the setback requirements. He stated in our zoning code, trams usually used as an access to shoreline on steep slopes, were defined as a structure and the front yard setback to be enforced.

Board Member Lersch stated that trams and stair systems to the shoreline were allowed in the Steep Slope Law and could be repaired, replaced and maintained, because it was the intent of that law that residents in steep slopes should be able to access their shoreline.

A lengthy discussion took place which involved the process of the application proceeding to the Zoning Board of Appeals and it was agreed that seeking legal advisement would resolve whether the application needed to be resubmitted as a new application with both variance requests or could proceed as scheduled with only the side setback variance request. Since a conditional approval was given on August 5th by the Planning Board decided, pending County and ZBA reviews, that a clarification of only a few minor revisions to general notes on the site map, and a letter to the Middlesex Hose Co. stating the location of the tram and the proposed Fire & Emergency Plan as required by code, would be required by the Planning Board to conclude the process prior to permitting by the Code Enforcement Office.

Mr. David Moon acknowledged he would expedite all current revisions to include a letter to Jason Bassett, Fire Chief at the Middlesex Hose Company with the proposed Fire & Emergency Plan for both the past Gibson and the Stewart tram sites. New Site Map revisions for the Stewart application would then be forwarded to the Code Office & Planning Board and the Zoning Board of Appeals to be placed on the next available agenda.

A motion to proceed as discussed was made by Board Member Lersch and seconded by Board Member St. Lawrence. The motion carried with all Board Members present voting in favor.

2. Application # 072915-SPR-SSR/Mr. David Moon of Marathon engineering, representing agent for Mr. Thomas Masaschi of 640 Fisher Road, (LR).

Ms. Kane, CEO summarized the application to the Board giving a brief history of the application. The applicant proposes to construct an addition to the existing residence, garage improvements and a connection from the garage to the existing house and improvements to the driveway which includes retaining walls. This property was first reviewed last January for Site Plan and pending map revisions, was resubmitted with a redesign by Marathon Engineers in July. Town Engineer, Static Consulting, conducted an onsite visit in July to review the proposed modifications as they related to the property

located in a Steep Slope Protection Area. Stantec's letter (dated August 7th) noted revisions resubmitted this afternoon by Marathon Engineers in a response letter (dated September 2nd .) Ms. Kane stated the applicant was seeking Preliminary and Final Site Plan Review and the application was in compliance with Town Code. She then introduced agent David Moon to present the application in further detail.

Mr. David Moon introduced owner Mr. Thomas Masaschi, attorney Jared Lusk from Nixon Peabody and Architect Mark Bodensteiner. Mr. Moon stated the proposed project added an extension to the north of approximately 964 sq.ft, demolition of the north and southwest wing of the existing structure and existing garage which will be rebuilt into a two story structure with a basement and connection feature to the new residence (attached garage). The middle section of the existing structure is the only part that will remain as the original single family residence.

Mr. Moon submitted proposed plans to replace an existing retaining wall with a new gravity wall detail for Board review and provided pictures to assist with project understanding. A slope map was submitted depicting a retaining wall permitted in 25-40% moderate range. Also in this range was the southwest corner of the house addition. A construction access would utilize an existing shared grass drive down to a gravel drive to the west section of the property.

The Board reviewed Marathon's response comments with David Moon and called out the following requests, stating Stantec would need to see all requested revisions on Site Map prior to Final Determination:

- a. Identify the various pipe sizes and types in the "Underdrain Trench # 2" detail
 - b. Finish the sentence and provide a detail in note #7 for "proposed inlets"
 - c. Add a detail on site map for the proposed retaining wall, showing construction requirements and height.
 - d. Note #16 would be resolved by adding a permanent rip rap swale to the bottom of the embankment and a temporary double row of reinforced silt fence along the shoreline for erosion control during construction.
 - e. Show average ridge heights at all roof changes on Architectural Plans.
 - f. Note on plans how the roof run-off will be collected and discharged.
3. Application #071515-SPR-SSR/ Mr. Terry E. Elliott, owner of property at 266 East Lake Road, (LR).

Code Enforcement Officer Kane summarized the application for the Board Members, stating the Board had seen a conceptual plan for new construction of a single family residence in August when the applicant applied for a lot line reconfiguration to extend his boundary line for the purpose of rebuilding the existing seasonal cottage. This new project included demolishing the entire existing cottage and rebuilding it to a larger residence, losing grandfathered status. The southern end of the addition would be located in an area of the property with an approximate 26% slope and would include a garage to be used for storage without a permanent driveway access. Temporary construction access to the property would be from the south through a neighboring parcel. The applicant stated he had submitted a letter of permission from the neighbor granting this construction access. It was proposed that all disturbance created for this construction access would be remediated back to a natural state after construction was finished. The applicant intended to begin the rebuild at the same pre-existing and non-conforming northerly building line of the cottage which violated side setback requirements. A variance request would be heard by the Zoning Board of Appeals on 9/3.

It came to the attention of the Code Enforcement Office, through a neighbors' complaint, that a number of trees had recently been cut down by the applicant, to prepare the site for construction access, prior to Site Plan Review. The CEO stopped the activity and required the area to be stabilized until the site could be reviewed by the Planning Board. Also included in the complaint was a statement that a number of structures on the property and shoreline were not in compliance with setbacks or permitted. Some of these structures are movable and could possibly be reset, and some are in the process of being inspected for compliance of Town Code.

CEO, Ms. Kane introduced applicant, Mr. Terry Elliott, requesting Preliminary Site Plan Approval to provide the Board with more detail. A hand drawn sketch was provided, as well as engineered site plans by Venezia & Associates.

After a lengthy review, the Board stated that since the proposed new construction would require demolition of 50% or more of the existing structure, hence losing the grandfathered status and the new design must be in compliance with the code's required setbacks.

Resident Mr. Richard Bolton asked the Board if he could read, a letter of complaint, as designated agent, submitted by Mr. Daly who owned property to the south. Mr. Daly could not be in attendance but wished to state his opinions. This letter was read into the minutes and will become part of the permanent record. Mr. Bolton stated he was also concerned that the construction access could be granted, become permanent and inquired how Town Law addressed remedial requirements.

The Board stated they could not give a recommendation to the ZBA to grant a variance without demonstrating hardship, nor could they approve a site plan that needed a variance when a redesign that complied with the Steep Slope Law was possible to include the Towns' required setbacks.

Mr. Elliott suggested purchasing an additional 11 feet of property to the south. He could then provide the board with a redesign of the house location, moving it to the south for setback compliance. The Board provided Mr. Elliott with additional site plan requirements for compliance with the Steep Slope Law, setbacks and additional detail necessary for possible final determination by the Planning Board:

- a. Locate steep slope categories on the site plan.
- b. Provide more detail of the temporary construction access, to include proposed and existing retaining walls and how the site will be remediated to its original state.
- c. Final Site Plan Approval can only be granted once concerns have been reviewed and deemed resolved.
- d. County Planning Board review will be required for this application unless exemptions are granted.

Other Business:

A draft letter from the Planning Board to the Middlesex Hose Company requesting service requirements to properties in steep slopes referencing current Town and State Codes, was reviewed and a motion made by Board Member Lersch to approve and mail. Board Member Gilbert provided a second and the motion carried with all Board Members present voting in favor.

Draft Minutes from August 5th were reviewed. A motion to approve was made by Board Member Gilbert and Board Member Mincer provided a second. The motion carried with all Board Members providing a second.

Resident Mr. Tim Murphy addressed the Board with a conceptual proposed Business Plan for a Mechanical Repair Shop at his property on Bagley Road. Code Enforcement Officer, Ms. Kane provided

a summary of this application stating it was originally considered back in 2012 and heard by the ZBA in December as a Special Use Permit. Since Mr. Murphy's property was within Hamlet Residential, Mr. Murphy was advised this activity was not permitted, however since it was quite close to the Highway Business District wherein this use was permitted that possible rezoning might be considered. Mr. Murphy provided the Board with a conceptual sketch showing boundary lines.

After a short discussion, it was advised by the Planning Board that Mr. Murphy work with the Code Enforcement Office to prepare an application, submit letters from the neighbors for Planning Board review.

A motion to adjourn was offered by Board Member Lersch and seconded by Board Member St. Lawrence. The motion carried with all board members present voting in favor.

The meeting adjourned at 10:15pm.
Next meeting agenda: September 16

Draft Minutes submitted by L. Lersch/revisions to: lynn.lersch@gmail.com

Minutes approved on September 17, 2015