

# Town of Middlesex

1216 Route 245  
Middlesex, New York 14507

**PLANNING BOARD**  
**Wednesday, December 6, 2023 • 7:00 p.m.**

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*The following minutes are the official and permanent record of the actions taken by the Town of Middlesex Planning Board, as recorded by the Planning Board Clerk.*

**Meeting called by:** Case Smeenk, *Chairperson*

**Board members present:** Gordon Stringer  
Nate Duffy  
Terry Mott

**Alternate:** Position vacant

**Staff present:** Dawn Kane, *Code Enforcement Officer*  
Thomas Palumbo, *Town Engineer (Stantec Consulting)*  
Beth Altemus, *Planning Board Clerk*

The meeting was called to order at 7:00 p.m. by the Chair.

## **OLD BUSINESS:**

### **1. Site Plan Review (App. #062823-SPR)**

**Gary Stom, owner of property at 867 South Lake Rd., Middlesex, NY 14507 (Tax ID #11.82-1-1), is seeking a Site Plan Review for construction of a new garage.**

Anthony Venezia of Venezia & Associates was representing Mr. Stom. Mr. Venezia briefly reviewed the project plan, which is to construct a thirty by thirty-six foot pole barn to the east of the existing house, and to divert water running off the hill behind the proposed barn into an existing swale which drains into the ditch on South Lake Road via a twenty-four inch pipe.

Mr. Smeenk expressed concern about a two feet elevation drop sloping towards the barn, and Mr. Venezia indicated that Mr. Stom is intending to install a French drain to move water into the swale; this drain will be reflected on the foundation plan.

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There was general discussion about a driveway serving as right of way access to the neighboring property to the east. CEO Kane indicated that the owner of the neighboring property was permitted to install a culvert on his own property to access his land, currently under a 480A Forestry Exemption, however the neighbor installed a driveway and inadvertently placed it on Mr. Stom's property. Thus, the second driveway as placed has setback violations that now exist on Mr. Stom's property.

The board discussed the need to either remove or bring the driveway into compliance in order to approve the pole barn construction. There was discussion that Mr. Stom was not responsible for the installation of the non-compliant driveway and therefore should not incur further expenses from generating new site plans for the garage, nor should be denied approval due to the actions of the neighbor.

Mr. Mott expressed that the neighbor should have some consequence for the inappropriate building of the driveway, and for timbering on his property when he has not been permitted to until 2024.

Mr. Smeenk made a motion to approve the pole barn subject to the French drain and swale being added behind the barn, and subject to the non-compliant driveway being either removed or brought into compliance. Mr. Stringer seconded. There was no further discussion, all board members voted in favor and the motion passed.

### **2. Site Plan Review (App. # 060423-SPR)**

**Soumen Das, owner of property at 556 East Lake Rd., Middlesex, NY 14507, (Tax Map ID # 11.35-1-3.2) is seeking a Site Plan Review for new construction of a new residence.**

Chris Costanza of 9 x 30 Design Architecture, Anthony Venezia of Venezia & Associates, and Mr. Das were representing. Mr. Das indicated that Stantec reviewed the plan several months ago, and the comments were addressed; the plan has since received a second review and Mr. Das would be addressing comments from that review. Mr. Das, Mr. Costanza and Mr. Palumbo reviewed these latest comments with the Board.

Mr. Palumbo indicated that at a prior Planning Board meeting the Board requested a Geotechnical Evaluation report, and that has been supplied to the Board. Mr. Costanza indicated that the latest drawings submitted to the Board reflect the suggestions of that report. There was discussion that when issuing a permit for the project it will be deemed a steep slope disturbance.

There was discussion about the driveway access, and Mr. Venezia indicated that an agreement to have one shared driveway access for this and adjacent lots is on file with the Town, and the use is established.

Mr. Palumbo noted discrepancies between the spot elevations on the lower floor of the house and the finished grade outside the house, and he asked Mr. Venezia to have the map indicate that elevations outside the house will be lower than the first floor.

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Mr. Palumbo expressed concern about a four by four feet square deck column foundation on the lake side of the house and whether it will extend out into the steep slope. He noted that it will be located within five feet of the top of the steep bank. There was general discussion and reviewing of the maps by Board members to see how deep the bedrock will be where the columns are placed, as hitting bedrock will be preferable so close to the top of bank, and where and how excavation might take place.

There was discussion about the need to stabilize the bank as excavation could result in breaking of the bank, and restoring the bank once broken would be very difficult. CEO Kane indicated that there should be clarification on how the stabilization will be accomplished, and what the consequence will be if it fails. Mr. Palumbo indicated that the bank must be monitored and kept stabilized until it revegetates.

Mr. Mott asked about the possibility of using a pile instead of a footer, and Mr. Palumbo suggested a narrower, longer foundation as another option. Mr. Costanza indicated that pile driving is very disruptive and he would rather change the dimension of the foundation if need be. He also suggested that erecting a silt fence on the top of the bank will serve as a clear barrier for contractors when excavating. Mr. Palumbo indicated that when installing silt fencing any movement of the bank should be noted, and stabilization should be implemented if too much movement is noticed.

Mr. Costanza asked how the top of the bank should be noted in the drawings, and Mr. Palumbo indicated that it should be reflected in the architectural plans so the masons can see it, either on sections 3.0 or S1.0. Mr. Costanza indicated that he will add the location of the top of the bank on the S1.0 drawing.

Mr. Palumbo continued to review the comments by Stantec with the project representatives, indicating the need for more spot elevations in certain sections of the map, and for north-south dimensions on the retaining wall. He asked for clarification about floor and spot elevations for the lower level in relation to concrete and wooden decks. Mr. Costanza indicated that the house will not be parallel to grade contour, therefore the grade changes from east to west.

Mr. Palumbo indicated the need for a licensed New York State Professional Engineer to stamp and sign off on the architectural drawings, per code. He indicated that the architectural plans need to resolve the floor vs. sidewalk spot elevations as they also affect elevations across the house and decks moving west to east.

Mr. Palumbo noted differences in the height of the retaining wall, and Mr. Costanza indicated that the east side of the house has a swale running north and therefore the grade at the house line is higher at the south side of the house. He noted that the thickness of the walls varies between eight and ten inches, depending on whether they are acting as retaining walls.

Mr. Das recognized that all the clarifying details discussed will need to be put into the drawings. There was discussion that with big projects such as this, changes often happen during construction, thus at the completion of the project final drawings will be generated reflecting all changes made during construction. Mr. Costanza indicated that

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he can make addendums to drawings throughout the project, and he will be recording any changes and why they were made. It was discussed that such changes should be submitted to CEO Kane throughout construction.

CEO Kane indicated that site plan approval by the Board requires that no changes may be made to the project without the review and approval of CEO Kane and Mr. Palumbo, and any further inspections and approvals must be completed, with dated reports and photos documenting all changes. It was discussed that CEO Kane will continue to monitor the site and engineer reports, which typically are sent to her daily to weekly throughout the project.

Mr. Costanza indicated that he is hoping to break ground in the spring, with an estimated timeline of one year to substantial completion. It was discussed that hydroseeding should be completed by the end of summer, and the site should be stabilized by winter, as indicated on the plans. Mr. Smeenk reiterated that the biggest concern is the foundation near the top of the bank, discussed earlier.

Mr. Stringer indicated that the existing driveway is unpaved and is eroding where it meets East Lake Road. Mr. Das indicated that it was decided not to pave the driveway until all three houses accessing the driveway are completed. There was general discussion about the need to maintain the driveway during construction.

Mr. Stringer noted that the slope of the driveway is steep and questioned whether the drain at the bottom of the new driveway will be able to catch all the water running down the slope. Mr. Palumbo requested that more spot elevations be added along the house to show that the grades around the driveway will sufficiently direct water to the drain. There was general discussion about the grading and structure of the drainage. A low point will be made at the bottom of the driveway to be sure all water collects in a 24 x 24 catch basin, and it was agreed that as long as the driveway and parking area are graded correctly, and according to the submitted plans, it should be sufficient to capture and accommodate water flows.

Mr. Smeenk made a motion to approve the plans as modified per the discussion with the Town Engineer (Mr. Palumbo), specifically responding to the comment letter of December 5<sup>th</sup>, 2023, and including:

- I. The protection of the top of bank during excavation for the northernmost deck column foundation;
- II. The inclusion of additional spot elevations along the east side of the house;
- III. Submittal of final plans to CEO Kane for final approval, with critical inspections being required throughout the project;
- IV. CEO Kane and Mr. Palumbo will create a list of said inspections upon receipt of the final submission.

Mr. Stringer indicated that he feels the project is too large for a steep slope area. Mr. Duffy seconded, Mr. Mott voted in favor, Mr. Stringer opposed, and the motion passed.

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**NEW BUSINESS:**

- 1. O'Brien, owner of property at 1163 South Lake Rd., Middlesex, NY, is seeking a permit for a retaining wall replacement.**

There were no representatives present, and no application for the project has been submitted. CEO Kane indicated to the Board that Mr. O'Brien intends to make a repair to a retaining wall.

**OTHER BUSINESS:**

There was discussion that the dispute over the access to the right of way on the Smith/Davis property has not been resolved. CEO Kane will send a document to the Town attorney for review.

Mr. Smeenk moved to adjourn the meeting at 8:26, all Board members voted in favor and the meeting was adjourned.