

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

PLANNING BOARD
Wednesday, May 1, 2024 • 7:00 p.m.

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 Smeenck

Board members present: Nate Duffy
Terry Mott
Gordon Stringer

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 Mr. Smeenck.

NEW BUSINESS:

1. Site Plan Review (App.# 041224-SPR)

Patrick & Ann McCormick, owners of property at 356 East Lake Road, Middlesex, NY 14507 (Tax Map ID# 1.76-1-3), are seeking a site plan review for construction of a new tram.

Logan Rockcastle of Marks Engineering, and Mr. & Mrs. McCormick were representing. Mr. Rockcastle gave an overview of the project, explaining that there is currently a pull-off by East Lake Road and a series of stairs down to the existing house. He commented that it's difficult to get down to the house as there is no vehicle access, and the owners want to install a tram to alleviate the process of hauling things down. He indicated that the applicants received approval for a setback variance from the ZBA last month and that the existing stairs start closer to the road than where the tram will start, thus the project will not impose closer to the road. Mr. Rockcastle indicated that the

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project will allow for parking close to the tram loading deck and give easy access to the house below.

He indicated that installation of the tram will have minimal impact on the environment as they will only remove smaller saplings, not older trees, and the pylons will be driven down to bedrock and will not require digging of large holes. He indicated that the plans show details for erosion blankets staked into the hill for any erosion that might occur, and that the project team is planning ahead to stabilize any impact and unnecessary erosion to the steep slope.

Mr. Smeenk commented that tram profile detail #4 on the map indicates that the pylons will be driven to refusal, with a minimum depth of thirty inches, but the foundation details give forty-two inches as the minimum. Mr. Rockcastle commented that the maps were made before the geotech report was received, but that they will follow the geotech report specifications. Mr. Smeenk indicated that he would like to see the pounds per square inch (psi) refusal specifications added to the drawings as well.

Mr. Smeenk questioned whether the existing 100 amp electric service will be enough to support the tram, and Mrs. McCormick commented that Finger Lakes Tram has indicated that they will need to update the service. Mr. Smeenk suggested that the new service could pull off the existing electric pole to save money, and Mr. Mott inquired whether they would need a separate meter. Mr. Smeenk indicated that they do not as they can split the line below the meter. CEO Kane indicated that this should be a condition of approval.

Mr. Mott inquired whether the line shown at the T-100 detail on the map is the edge of pavement of the road, and Mr. Rockcastle commented that it indicates the setback from the center of the road. Mr. Mott commented that it looks like the property line is the centerline of the road, and there was general discussion about what certain lines on the map denote.

Mr. Mott inquired how the tram will be accessed, and Mr. Rockcastle indicated that access will be right at the road, with the tram landing at the parking area. Mr. Smeenk indicated that he would like to see the parking area delineated on the map, and inquired who will build the upper landing platform to get onto the tram. Mr. Rockcastle indicated that the contractor, Finger Lakes Tram, will build the platform. Mr. Smeenk asked what the footers will be, and Mr. Rockcastle indicated that he doesn't have those details. CEO Kane commented that there should be a detail for that on the map.

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Mr. Rockcastle indicated that he will coordinate with Finger Lakes Tram to get that drawing. Mr. Palumbo commented that specifications for construction of both the top and bottom landings will need to be shown.

Mr. Mott inquired who plows that section of the road, and CEO Kane indicated that it's done by the County; Mr Mott asked whether the County needs to look at the project plans, and CEO Kane indicated that they do not as this falls on private property and a variance has already been granted.

Mr. Smeenk indicated that the site plan is not sealed, and Mr. Rockcastle indicated that he will have that done. CEO Kane commented that under Law 609.4, inspections need to be completed before the tram can be used, and that owners are responsible for upkeep of their tram.

There was general discussion that the conditions for approval would include the addition of parking limits to the map, the upgrading of the electric service, details for construction of the upper and lower tram decks, the specification of psi refusal details, and the completion of an inspection. There was also discussion that a formal SPR application number should be filed.

Mr. Mott made a motion to approve the plan as provided, with the conditions previously stated, Mr. Duffy seconded.

Mr. Smeenk inquired whether Mr. Palumbo will need to review the project further, and Mr. Palumbo indicated that he does not. Mr. Dan O'Brien, speaking from the audience, commented that they should go for it. Mr. Stringer inquired why the psi refusal details were of interest, and there was general discussion that they give the calibration for where refusal starts and therefore indicate when they can stop driving the pylon. Mr. Smeenk commented that when he did his tram they had that information, as well as what to do if that depth can't be achieved, but that this is a much gentler grade with less shale exposure. There was discussion that a steep slope application was not needed.

There was no public discussion, all Board members voted in favor, none opposed, and the motion passed.

2. Site Plan Review (App. # 11523-SPR)

Dan & Jo-Ann O'Brien, owners of property at 1163 South Lake Road, Middlesex, NY 14507 (Tax Map ID# 21-56-1-10) are seeking a site plan review for a retaining wall replacement.

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Mr. O'Brien was representing. He explained that he has consulted with contractors regarding the existing retaining wall and slope, and has received a suggestion to terrace the bank; he has determined that the existing block wall does have tie-ins. He explained that his neighbor indicated that geofabric was installed when the wall was built by Jeremy Fields. Mr. O'Brien commented that he believes the bank can support two timber terraced walls to hold back the dirt, and he intends to keep the existing trees.

CEO Kane commented that she expressed in an email to Mr. O'Brien that some of the Board members have a concern about how this project would affect the road right of way. Mr. O'Brien distributed to the Board photos showing the area from the road to the existing timber, which he indicated is a distance of about four and a half feet, and he indicated that he will not be moving closer to the road.

Mr. Smeenk commented that when he went to the site he didn't know which wall he was intending to rebuild. Mr. O'Brien explained that the block wall installed by Jerney Fields will stay, but he would like to install timber terraces above it in the space between the top of the block wall and the top of the bank. Mr. Duffy commented that at the last meeting there was discussion of the need for more details on the site and the project, and Mr. O'Brien briefly explained the existing topography and infrastructure at the site, including the block wall and cast iron steps leading down the slope.

Mr. Palumbo inquired whether the tree at the site would be lost, and Mr. O'Brien indicated that they intend to use the tree as an anchor. Mr. Palumbo indicated that you can't just dig and put planking in as you need a foundation. Mr. O'Brien commented that the plan was to put steel down for the timber to fit into.

There was general comment from the Board that they need to see a plan showing details from the road to the lake, including dimensions, materials, and how and where it will be installed. Mr. Palumbo commented that if walls are over three feet they need to be designed by a professional engineer, and plans need to show topographical information from the road to the bottom of the block wall, with a description of how the new wall is to be built. Mr. Smeek commented that they are not opposed to the project, but they just need it done correctly. Mr. O'Brien indicated that he will continue to gather this information.

Mr. Palumbo inquired whether he will rebuild the stairs, and Mr. O'Brien indicated that he will take them off for construction and then replace them as they're pretty sturdy and can be lifted up with a bucket to work beneath them. He also indicated that he doesn't believe the project will disturb or impede traffic, and there is plenty of parking across the way for service vehicles.

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Mr. Mott commented that he cannot see evidence from the photos that the bank is unstable as there is no evidence of soil movement down the hill and there is good vegetation cover; he expressed concern that digging into the slope might cause more problems than if left alone. Mr. O'Brien commented that his first contractor shared that opinion, but Mr. O'Brien commented that the existing area is a bit unsightly. Mr. Mott inquired whether the trees and existing vegetation will be removed, and Mr. O'Brien indicated that he doesn't want to lose the trees. Mr. Mott commented that they will just have to look at a plan when Mr. O'Brien returns with better details.

There was general discussion that Mr. O'Brien will need an engineer to create a site plan to be presented to the Board for review.

Mr. Duffy inquired whether there is any way to consider this project an upgrade, and Mr. Palumbo commented that if they build a modern wall it would be an update as it would be more stable. Mr. O'Brien commented that he believes the new paving on South Lake Road has made a more clear delineation of the road line; Mr. Mott commented that over the years there has been a lot of heavy traffic on that road, so if it hasn't caused problems before, it probably won't now.

Mr. Smeenk indicated that the Board will table the discussion of this project.

3. Site Plan Review (App. # 041024-SPR)

Christopher Braun, owner of property at 5906 South Vine Valley Road, Middlesex, NY 14507 (Tax Map ID# 12.03-1-13.1), is seeking a site plan review for construction of a pole barn.

Ashley and Richard Braun were representing.

Mr. Smeenk commented that the survey shows the power pole about ninety feet from the driveway, but it actually sits about 180 ft away. There was discussion of where the meter and pole are located on the map, and Mr. Smeenk inquired whether the septic had been approved.

CEO Kane indicated that the existing house is a relatively new build and the applicants are planning for expansion of the septic by adding two more lines. Mr. Braun indicated to the Board where these two added lines are shown on the map, and it was noted that it's a gravity fed septic system. Mr. Smeenk inquired whether a portion of or the whole garage will be considered living space, and Mr. Braun indicated that an approximately eighteen by thirty-six feet area will be living space. Mr. Stringer asked for clarification

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that the new septic lines are needed because part of the garage will be for living space, and Mr. Braun indicated that this is the case, and that he's hoping to retire and live there soon.

Mr. Duffy asked CEO Kane if she has seen the plans for the living quarters, and CEO Kane indicated that she has no details on that yet; the applicants are here for a site plan review only, and then will have to meet building requirements if approved. Mr. Smeenk inquired whether this will be considered a multi-family dwelling, and CEO Kane indicated that she doesn't think so because they will not all be living under one roof. She commented that the zoning doesn't say anywhere that you can't do this, and therefore a use variance is not required, and there was general agreement by the Board that they can't find anything in the zoning saying they can or cannot do this. CEO Kane indicated that the goal is safety, health and welfare, and if the septic, driveway and buildings are built to code it should be OK.

Mr. Smeenk asked if anyone had any concerns, thoughts or questions. Mr. Duffy indicated that if the septic is approved and there's nothing in the code that prevents the project, then he feels it's a great plan. There was general discussion that this is a big decision because of the precedent it sets. Mr. Stringer commented that the code doesn't say they can't do this, so if the Board desired to prohibit this kind of use they would need to change the zoning code, but at present they have to work with the existing code.

Mr. Duffy inquired whether the new living space in the garage would get a separate 911 address, and there was discussion that it would not as this would still be regarded as one address. Mr. Smeenk commented that it's similar to a carriage house. CEO Kane commented that approval will open up the possibility for people to have guest houses and rooms, and there was general discussion that if a private property has the room for this it should be allowed. CEO Kane commented that this project allows a family to come back together to share resources and that's a positive thing.

Mr. Mott made a motion to approve the project, Mr. Stringer seconded.

Mr. Smeenk indicated that the Board will need to see the pole and electric line in the right location on the map, as well as the location of the well. CEO Kane indicated that the build is also subject to safety, health and welfare requirements for separation of the living space.

Mr. Smeenk inquired whether they had looked at water runoff, and there was general discussion about drainage on the map. Mr. Duffy asked if silt fences would be placed,

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and there was discussion that they should be on the downstream side of the building. Mr. Smeenck inquired if the check dams on the map are existing, and there was discussion that they are not, so those will be for erosion control as they act as silt filters. Mr. Palumbo commented that it would still be beneficial to put up silt fencing.

Mr. Smeenck indicated that approval should be contingent upon the following: the addition of silt fencing west of the new construction, the survey map should be updated with the correct locations of the well, power pole, electric meter and underground power to the house, receipt of the confirmation letter for septic approval, and the labeling of check dams on the site plan.

There was no public discussion, all Board members voted in favor, none opposed, and the motion passed.

4. Site Plan Review (App. # 040824-SPR)

Vernon Branagan, owner of property at 5713 Underwood Hill Rd., Middlesex, NY 14507 (Tax Map ID# 22.74-1-1) is seeking a Site Plan Review for construction of a new garage.

No representatives were in attendance.

OLD BUSINESS:

1. Site Plan Review (App. # 021424-SPR)

Joseph Nacca, owner of property at 5940 Widmer Road, Middlesex, NY 14507 (Tax Map ID# 31.70-1-4) is seeking a site plan review for an addition and remodel.

No representatives were in attendance. CEO Kane commented that Mr. Palumbo completed an engineering review of the plans and they are awaiting a response, as well as a complete survey, from the applicant.

OTHER BUSINESS

Mr. Stringer inquired about the definition of a pole barn vs. a garage and how they differ. Mr. Smeenck commented that pole barns have no foundation or footers, and poles are sunk and built around, whereas garages have a poured foundation. There was discussion about whether the definition also indicates a difference of use, and Mr. Palumbo indicated it is both a use and a mode of construction. Mr. Stringer inquired if

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pole barns have pads, and Mr. Palumbo and Mr. Smeenck indicated that sometimes they are dirt, but they can also have floating decks.

CEO Kane commented that the Town had amended these definitions in the zoning law because people were building pole barns and converting them to homes, which had to be addressed because pole barns are supposed to be for agricultural use. She indicated that the code reviews the definition for pole barns for non-agricultural use in the updated local law #1 of 2020. Mr. Smeenck commented that there is no description of barns in the zoning codes.

There was general discussion about some separate local laws being outside of the regular zoning codes, and the need to get the zoning laws organized.

CEO Kane addressed the need for the Board to work on a new solar law and distributed a model solar law for their reference. She explained that the Town Board wants to protect vistas from commercial solar farms. Mr. Palumbo commented to the Board that they should ask themselves what constitutes a visual impact, and whether just being able to see it creates an impact. There was discussion that solar panels have a twenty-year lifespan, and Mr. Palumbo commented that the law should require a bond from installers to demo the panels after their life expectancy has passed.

CEO Kane indicated that surrounding local solar laws are all very similar, and the Town is only dealing with the commercial side of this, so the Board needs to decide what the threshold is for commercial installation. Mr. Mott inquired if they can choose zones where solar would be allowed, and CEO Kane indicated they can. She commented that there is a moratorium for one year, so they have until 2025 to create the law. Mr. Mott commented that he wants to ensure the Town doesn't make it easier to build solar farms here than in surrounding municipalities. CEO Kane indicated that Bristol and Naples have good example laws.

Mr. Mott commented that the Board didn't have an option with the cell tower installation, and asked if this would be an issue with solar installations. Mr. Palumbo indicated that if a farm is over twenty-five gigawatts it goes into state public utility designation and localities then don't have a say, however the state has to respond to the environmental impacts of a project.

There was discussion about approval of the April meeting minutes, and Mr. Smeenck asked if there were any comments. There was no discussion, and Mr. Smeenck made a motion to approve the April minutes, Mr. Stringer seconded, all Board members voted in favor, none opposed, and the motion passed.

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Mr. Smeenk adjourned the meeting at 8:12 p.m.