

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

PLANNING BOARD
Wednesday, July 3, 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

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 7:01 p.m. by Mr. Smeenck.

NEW BUSINESS:

1. Site Plan Review: App. # 052324-SPR

William Scott, owner of property on Dorman Road, Middlesex, NY, 14507 (Tax Map ID# 33.08-1-8), is seeking a site plan review for construction of a pole barn.

William Scott was representing. Mr Smeenck asked for a brief overview of the project, and Mr. Scott explained that he's seeking to build a thirty feet by forty feet pole barn, with an inside height of fourteen feet, with all metal roofing and siding. Mr. Smeenck inquired how the drainage is currently at the proposed site, and Mr. Scott indicated that the site where the pole barn is to be built was previously full of black locust, which has been cleared over the last two years, including removal of the roots, and is one of the highest spots on the property, therefore he doesn't believe drainage will be an issue in that location. Mr. Mott commented that the land slopes towards Dorman Road at the location anyway.

Town of Middlesex Planning Board Meeting Minutes: July, 2024

Mr. Smeenck asked the Board if there were any concerns, and Mr. Mott indicated he had none. Mr. Duffy asked whether there's a sign posted at the property indicating that the property is under review from the Town, and there was discussion that the proposed site is easy to find at the end of road.

Mr. Mott made a motion to approve the proposed pole barn. Mr. Smeenck opened public discussion, there was none, and the discussion was closed. Mr. Duffy seconded, all Board members voted in favor and the motion passed. Mr. Smeenck indicated to Mr. Scott that he will need to obtain his building permit from CEO Kane and will then be able to begin building.

2. Preliminary Review: App. #062624 - SPR

Ingrid Watkins, owner of property at 1327 South Lake Road, Middlesex, NY 14507 (Tax Map ID# 21.79-1-7.000) is seeking a preliminary review for construction of a residence.

Brennan Marks of Marks Engineering, Ty Allen of ARK Design Studio, and Brad Hall of Element Design Build were representing. Mr. Marks summarized the project to date, explaining that the Board previously gave approval for construction of a retaining wall at the site, and they have since received approval from the state for the septic system. He showed the Board 3D images of the proposed residence and explained that they have updated the building elevations, which are similar to the original proposal but with more detail.

Mr. Palumbo asked what the condition of the project site is currently, and Mr. Brennan indicated that it's the same as when the Board last saw it and that the retaining wall has not been built. Mr. Allen indicated that the design footprint and exterior aesthetic of the proposed residence hasn't changed other than a few inches here and there. He referenced the 3D images and indicated that the average grade is now at 740.5 feet, as compared to 739.5 in the previous plans, with the residence averaging 30.1 feet above grade. Mr. Palumbo inquired whether the plans give the relationship between the second floor and garage. Mr. Allen indicated that the grade comes up and into the retaining wall.

Mr. Mott commented that the bank cut is large and inquired whether the retaining wall will be able to keep the bank back. There was general discussion that the wall will be thirteen feet high and will still be built according to the original plans that were previously approved. Mr. Palumbo indicated that there is currently a foundation for the wall, but just a raw cut in the bank, and they will need to mass grade the area before the wall goes in. Mr. Marks agreed.

Town of Middlesex Planning Board Meeting Minutes: July, 2024

Mr. Hall commented that the cut has since sloughed off a bit and will need to be cleaned up to install the footer. He also indicated that the mason and site contractor will work together to install drainage, which will be directed to the south. Ingrid Watkins, speaking from the audience, commented that their friends own the property to the south and will allow use of their driveway if need be.

Mr. Smeenk commented that the original plans were to remodel the former house, and the project received variances to do so; he inquired whether new variances need to be obtained as the plan has changed to a new build. CEO Kane inquired whether the footprint has changed, and Mr. Allen indicated that it is very close to the original.

CEO Kane inquired whether the basement walkout is new, and Mr. Allen indicated that it is. Mr. Palumbo commented that the grade in front has been lowered and flattened under the porch. Mr. Marks indicated that the retaining wall used to come around the front, but because the former house was torn down and the foundation was exposed, the owners decided to put in a full basement. He indicated that the need for a retaining wall at the front was eliminated by bringing the basement to grade, and this then allows for a walkout.

Mr. Marks commented that they are maintaining the setback values they were originally granted. Mr. Smeenk commented that those values were granted based on a remodel and inquired whether they still apply. CEO Kane indicated that they should produce an overlay of the original and new footprints, and if they are the same the variances will hold.

CEO Kane inquired whether the new septic design, new grading for the basement walkout, or any other changes would affect the variance values, and the project team indicated they would not.

Mr. Marks commented that the nutrient levels coming out of the new proposed septic system will be better than what comes off the street, and will probably be clearer than lake water. Mr. Mott inquired how the system works to accomplish that, and Mr. Marks briefly explained that the system has multiple phases. The first involves injecting air for aerobic activity, then coarse gravel holds bacteria and adds more oxygen before the water absorbs into the soil.

CEO Kane inquired about the status of their application for a geothermal system, and Mrs. Watkins indicated that it will be the same system as previously proposed, with two wells at 450 feet in depth in the footprint of the garage. CEO Kane indicated that the

Town of Middlesex Planning Board Meeting Minutes: July, 2024

application for the geothermal system should be included as part of the greater project application, rather than as a separate entity.

Mr. Palumbo indicated that the wall design is integral to the house structure, and Mr. Allen indicated that they will be following the original wall design. Mr. Palumbo indicated that they need to put the details of the wall in the final plans. Mr. Marks indicated that he designed the wall and will provide a general section and letter assuming responsibility as the engineer of record. Mr. Palumbo indicated that he would like to see more details of how the wall will be reinforced.

Mr. Smeenck inquired whether the posts on the decks were in the original plan, and Mr. Allen indicated that they were. Mr. Smeenck asked Mr. Palumbo if he's seen details for those, and Mr. Palumbo indicated that he has not, however he normally does not see those. Mr. Mott inquired if the old foundation will be removed, and Mr. Marks indicated that it will.

Mr. Palumbo inquired if the basement will have bathrooms, and the project team indicated it would not. CEO Kane asked if the walkout from the basement will just be for storage, and Mrs. Watkins indicated that it would be. CEO Kane commented that if they think they might ever have habitable space in the basement they should plan for that now. Mrs. Watkins indicated that the septic is approved for five bedrooms, but they only plan to have three. Mr. Allen asked if anything would preclude them from having a bathroom, and CEO Kane indicated there is not, but they should include those in the plans if they intend to have one in the future.

Mr. Palumbo commented that on the original plan there was a stairway from the front to the deck and asked whether they will recreate that. It was indicated that they will not, and will walk out onto the lawn at grade.

CEO Kane asked Mr. Allen if he can supply a draft of the architectural plans, including floor plans, elevations, etc., and Mr. Allen indicated that he could.

Mr. Smeenck inquired whether they are concerned with any load changes on the foundation walls, and Mr. Allen indicated that since the Board went through the whole design a year ago and there will be a new foundation he believes there is no concern. CEO Kane indicated that the project will need to be reviewed by Stantec and reiterated that they should submit the draft architectural plans.

Mr. Mott indicated that the silt fence should go all the way to the property line, and Mr. Duffy commented that it should also be installed at the southern end near the road. Mr.

Town of Middlesex Planning Board Meeting Minutes: July, 2024

Duffy also requested that they place a sign saying the property is under review so the neighbors are made aware.

Mr. Mott made a motion to approve the preliminary plans, Mr. Duffy seconded. There was no public discussion, all Board members voted in favor and the motion passed.

Mr. Marks asked whether they should come back to the Board, and CEO Kane indicated that they will need to return, and if they can get everything submitted by July 17, they can appear at the August meeting.

3. Preliminary Review: App. # 061724 - SPR

David Bero, Jr., owner of property on Mertz Road, Middlesex, NY 14507 (Tax Map ID# 22.01-1-38), is seeking a preliminary review for construction of a residence.

Brennan Marks of Marks Engineering and David Bero Jr. were representing. Mr. Bero explained that he's looking to build an approximately 2000 square feet modular home and a thirty feet by fifty feet pole barn. Mr. Marks explained that it will be accessed via part of a shared driveway with the property to the south, currently owned by Mr. Bero's brother. He indicated that he intends to file an easement for this use, and that the home will be a Key Modular Home, with a walkout on one side, a detached barn, and a standard inground septic system, which has received approval from the Canandaigua Lake Watershed. He indicated that there is a lot of silt fence planned, and there will be a bit of a cut on the back/east side for grading, and a gravel turnaround accessible to fire trucks.

Mr. Mott inquired whether the barn will be a pole barn, and Mr. Marks indicated it will be. Mr. Duffy indicated that the property should have a sign that it's under review, and Mr. Marks indicated that he will put one out. There was general discussion that this signage is good for neighbors and communities.

Mr. Palumbo indicated that a check dam would be good, and Mr. Marks indicated he can add one. Mr. Mott inquired why Mr. Bero will be using his brother's driveway, and Mr. Bero indicated that it will save money to use the existing drive. Mr. Mott indicated that a previous application didn't receive approval for a similar shared driveway situation, and there was discussion that that applicant had wanted a flag lot.

CEO Kane inquired if there would just be one house, and Mr. Bero indicated that there would be. Mr. Marks commented that the family relationship with the shared driveway

Town of Middlesex Planning Board Meeting Minutes: July, 2024

helps, and if Mr. Bero's brother ever did sell his property it could be connected to the road with a new driveway.

There was general discussion that sharing a driveway causes less disturbance. CEO Kane indicated that it isn't a problem now, but inquired whether it might become problematic if Mr. Bero's brother ever wants to build. Mr. Palumbo commented that if they file an easement over the driveway it should be fine for future use. Mr. Bero indicated that they will file the easement if need be.

Mr. Mott inquired whether sharing the cost of maintenance could be put into the easement, and Mr. Marks indicated that it could. CEO Kane indicated that the current zoning laws make a shared driveway tough. There was general discussion whether such a use is allowable, and CEO Kane inquired whether there is a third parcel to Hadsell; it was indicated that there is. CEO Kane indicated that they could go to the ZBA to solve this.

There was general discussion that putting in a new driveway would be costly and difficult, requiring woods to be cleared. CEO Kane indicated that the applicant should have an attorney prepare an easement document and present it to the ZBA. She agreed that a shared driveway would be better in this case, but because it's not in the Town code for residential zoning the Planning Board can't make this approval. CEO Kane also indicated that the Board could write a recommendation to the ZBA that the shared driveway will have no negative impact and that the lane on Mr. Bero's brother's property has been used for a very long time.

There was discussion that the Planning Board can give approval with the condition of ZBA approval for the shared driveway.

Mr. Marks and Mr. Bero discussed that maybe they could build the lane to Town standard, or a new driveway to the road. Mr. Bero indicated that he needs a building permit to order the house, and Mr. Duffy commented that by using the existing drive they will not be doing any clearing to get construction vehicles in.

Mr. Smeenk made a motion to approve the project subject to the ZBA granting a variance for the shared driveway, Mr. Mott seconded, there was no public discussion, all Board members voted in favor and the motion passed.

Mr. Duffy asked whether the Board should write a letter of recommendation, and CEO Kane indicated that they can do it via email. She also indicated that she would give a recommendation at the ZBA meeting. Mr. Marks clarified that the variance request

Town of Middlesex Planning Board Meeting Minutes: July, 2024

should be to use the preexisting road for a shared drive and not build the driveway to Town standard. Mr. Palumbo referenced section 703 of the Town code, and CEO Kane commented that it's a preexisting, non-conforming access road. CEO Kane indicated that she will get the approval letter from the Board and can issue a building permit so Mr. Bero can order the house.

There was brief discussion that the Town code regarding shared driveways should perhaps be changed to define shared driveways as having three plus users.

OTHER BUSINESS:

There was no representation for William Dowell (App. # 052024 - SPR) or Alan Krautwurst (App. # 061824 - SPR).

The Board had a general discussion of the Watkins project and the need for comprehensive details and plans, and for one comprehensive application instead of piecemeal approvals. Mr. Mott expressed concern about the hillside coming down, and CEO Kane indicated that was a concern with the size of the geothermal drill.

There was general discussion of the Krautwurst application for construction of a dock, and Mr. Mott inquired whether a steep slope application was needed because it's very steep going down from the access point at the road to the dock. Mr. Palumbo inquired whether they would be putting in a path as that would cause disturbance and further reason for a steep slope application. There was also discussion that the numbers on the maps and plans don't reconcile with those in the project description.

CEO Kane indicated that Mr. Dowell will be returning to the Board and will move the garage as discussed at the June meeting. She also gave a brief update of the Davis/Smith property and indicated that a request for one survey showing all accesses is being resisted.

There was general discussion about the pros and cons of allowing a shared driveway scenario in the Bero application. It was discussed that shared maintenance agreements don't always work, and deeds can be vague regarding how to divvy up the shared maintenance. Mr. Duffy commented that a properly detailed maintenance agreement should work, and that older agreements are often messy. There was discussion about the difficulty in getting a large number of shared users to agree to such maintenance agreements and the need for attorney fees to write such agreements.

Town of Middlesex Planning Board Meeting Minutes: July, 2024

The Board agreed to table approval of the June minutes to give members more time to review them.

Mr. Smeenk commented that the Board will put off their review of the zoning laws and the solar moratorium until the fall; CEO Kane commented that longer work sessions would be more productive.

Mr. Smeenk announced that Mr. Palumbo will be retiring in the middle of September, and Mr. Palumbo indicated that they've not yet found a replacement for him.

Mr. Smeenk made a motion to adjourn the meeting at 8:23 p.m., all Board members voted in favor and the meeting was adjourned.