

# Town of Middlesex

1216 Route 245  
Middlesex, New York 14507

**PLANNING BOARD**  
**Wednesday, October 2, 2024 • 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 Smeenck

**Board members present:** Nate Duffy  
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 7:02 p.m. by Mr. Smeenck.

## **NEW BUSINESS:**

### **1. Conceptual Site Plan Review**

**The Sherwoods, owners of property at 306 East Lake Road, Middlesex, NY, 14507 are seeking a preliminary site plan review for construction of a residence.**

Wendy Meagher of Meagher Engineering was representing. She explained that the property is zoned Lakefront Residential and is skewed towards the lake so that the house is angled to the north corner of the property. She also noted that it lies in the steep slope area. Mrs. Meagher explained that the plans attempt to minimize potential disturbance by using the neighboring drive as a shared access, and that they have a letter of intent from the neighbor in support of drafting a shared access agreement.

Mrs. Meagher also noted that there is currently an accessory structure along the shore, which they are proposing to keep, with one room in the lower level and a small loft for a bathroom facility. They are proposing to install a tram to access this building instead of

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cutting a drive into the hillside. She noted that there is no record of a septic system for this building, so they are proposing to have the waste water pumped up into the primary system at the proposed residence above.

Mrs. Meagher commented that they are trying to embed the house into the hillside to minimize its footprint, and that the overall disturbance will be just over a half acre total. She explained that because of the steep slope they are looking for a height variance, but otherwise intend to stay within the code.

Mr. Smeenk inquired where the tram will be going, and Mrs. Meagher answered that it will have two stops at the house and go down to the shoreline. Mr. Smeenk commented that the Board will need to see contours all the way down to the shore, and Mrs. Meagher noted that contours where the house will go are shown already, and that there is a map showing contours all the way down to the shore that has not yet been printed.

Mr. Palumbo inquired whether the application for the residence will include the tram installation, and Mrs. Meagher indicated it would.

CEO Kane inquired about the square footage of the residence, and Mrs. Meagher noted that it will be approximately 6,500 square feet. She also commented that the lot coverage and building height calculations will be in the application, as will a steep slope application.

Mr. Palumbo inquired if the topography had been surveyed by ground survey, and Mrs. Meagher indicated it had; Mr. Palumbo noted that they will need to see the source of that in the application.

Mr. Smeenk inquired who will be designing the septic system, and Mrs. Meagher indicated that Meagher Engineering has already completed the basis of the design and is currently in review with the State Health Department and Canandaigua Watershed.

Mr. Smeenk inquired what the overall height of the building will be, and Mrs. Meagher indicated it will be 39.2 feet. She indicated that the building height calculations were found using a weighted average of the sides at multiple points and the average grade.

Mr. Duffy inquired if the only variance they'll be seeking is for the building height, and Mrs. Meagher reiterated that it would be.

Mr. Smeenk inquired if they would have a shared driveway access agreement drawn up, and Mrs. Meagher indicated that the easement is being drawn up and will be

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formally signed by the neighboring property owners. CEO Kane commented that the Board should discuss whether that easement needs to be recorded with the Town. Mrs. Meagher commented that to build a separate access would create more disturbance, and the neighbors are willing to share. She commented that they will make improvements to the driveway for the mutual benefit of both users.

CEO Kane inquired what is the grade of the existing drive, and Mrs. Meagher indicated it's around 20%. Mr. Smeenck inquired whether it would be paved, and Mrs. Meagher indicated that a portion of the drive would be, as well as the parking area where it flattens out, which will accommodate five to six cars.

Mr. Smeenck inquired how the house would be accessed if one was parked above, and Mrs. Meagher indicated that there will be landscape steps matching up with the tiers of the leach field. Mr. Smeenck asked if these are to be retaining walls, and Mrs. Meagher indicated that they will be two to three feet tall to make tiers for the leach field.

Mr. Smeenck inquired whether the material for the leach field will be trucked in or come from regrading, and Mrs. Meagher indicated that it will be built up with soil. Mr. Smeenck inquired about other retaining walls on the plans, and Mrs. Meagher commented that they are about five feet tall, with the tallest being six to eight feet tall. Mr. Smeenck indicated that on future submittals they will need to show the top and bottom elevations of the walls.

Mr. Palumbo expressed that his biggest concern is creating a one on one slope; if they go two on one they'll need to look at adding a wall. Mrs. Meagher indicated that they will use geo-web to reinforce soils, and Mr. Palumbo and Mr. Smeenck indicated that they will need to show a lot of details on that, and show both the existing slopes and proposed slope changes everywhere. Mr. Palumbo commented that nine feet of fill is going in at the bottom of the house, and Mrs. Meagher commented that they are balancing for cut and fill. Mr. Palumbo also commented that they will need to show sections running all the way down to the bottom of the slope.

Mr. Stringer inquired whether the contours on the maps are showing existing and proposed contours, and Mrs. Meagher indicated that the solid lines denote existing contours, and the dashed lines denote proposed contours. Mr. Stringer inquired whether the driveway will just be improved or regraded, and Mrs. Meagher indicated that it will be regraded.

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Mr. Smeenk indicated that any walls over three feet tall need professional engineer design and approval, and Mr. Palumbo indicated that they will also need details on the tram, including geotech, as well as geotech details for the walls.

Mrs. Meagher indicated that they will do the project in stages, with the driveway first, then bring in equipment for borings. Mr. Smeenk commented that they will give no approvals until they know where they will pour, and they'll need borings before approval. CEO Kane indicated that those are also required for the tram, so they will need boring details for both the house and tram before submitting an application.

Mr. Smeenk inquired about the bathroom in the current accessory structure, and Mrs. Meagher explained that there is a sink and toilet. She reiterated that they couldn't find information on where the waste goes currently and that it will be tied into the new system. Mr. Palumbo indicated that they will need to locate the waste chamber if possible and remove it if found.

Mr. Palumbo commented that the slopes downstream of the house will be manmade and therefore difficult to stabilize. He indicated that it's hard to get good vegetation established in those areas. Mr. Smeenk inquired how far from the water the house will be, and Mrs. Meagher indicated it will be two hundred feet up from the shore. Mr. Smeenk indicated that they'll need more copies of the contour maps downslope, and Mr. Palumbo indicated that they will need to put the proposed grading on the overall map, in addition to the current grading.

There was general discussion about the next steps for the application, and it was agreed that the plans shall be revised according to the comments of the Board, which will be summarized in a letter for the applicant, and the project will be put back on the agenda for the Board to review at a later date.

Mr. Palumbo commented that they should also look at the downhill drainage paths, and inquired whether they will have a storm sewer. Mrs. Meagher indicated they would, and Mr. Palumbo commented that they will need to be careful about that discharge down to the lake.

### **OLD BUSINESS:**

#### **2. Site Plan Review: App. # 082024 - SPR**

**Dawn Aprile, owner of property at 1321 East Lake Road, Middlesex, NY 14507 (Tax Map ID# 21.79-1-4) is seeking a preliminary site plan review for construction of a residence.**

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Bill Grove of Grove Engineering and Dawn Aprile were representing. Mr. Smeenk inquired if they had made any changes to the plans since last month's visit to the Board. Mr. Grove indicated they had made the requested changes, including adding the existing conditions plan, which helps see what's existing vs. what's proposed. He indicated that the main house, garage and two cabins up the hill are existing, and the proposed work is to add additional space between the house and garage, and to modify the driveway entrance.

Mr. Smeenk inquired why they're moving the driveway entrance, and Mr. Grove indicated that currently they need to make a turn as they come out on the road. Mrs. Aprile commented that the biggest reason is that the drive is very steep and she has difficulty opening car doors on its slope; the proposed changes will allow her to drive up and have a flat area to park. Mr. Grove explained that by lengthening the driveway they will take some of the slope out. Mrs. Aprile commented that she feels the change will also make it safer for her to exit onto the road as she will have a better site line. Mr. Smeenk inquired if she plans to park in the garage, and Mrs. Aprile said she does.

Mr. Smeenk asked what is the purpose of the addition, and Mrs. Aprile indicated that it will give her a larger family room and kitchen area, with a porch below. Mr. Grove indicated that there is a tunnel underneath the existing structure which will be maintained for the porch; Mrs. Aprile commented that the porch will be on a terrace below and may be screened in. Mr. Palumbo commented that it is not a conditional space, and Mrs. Aprile commented that the only changes to the existing structure is that the wings of the porch will come down and they will be maintaining the existing footprint. She commented that there will not be an addition of bedrooms, just a reconfiguring of the living space.

Mr. Palumbo inquired of CEO Kane whether they would need approval to reconfigure, and CEO Kane indicated they would. Mr. Palumbo indicated that it should be stated on the plan that they will have renovations and additions.

Mr. Grove commented that they also plan to add a walkway from the parking area up to the front steps of the house. Mr. Smeenk inquired if the small wall existing there will remain, and Mrs. Aprile indicated that it's a timber landscape wall that will be removed. Mr. Smeenk inquired if the space between the pad and garage will be graded, and Mr. Grove indicated it would. Mr. Palumbo indicated that the Board will need details and side calculations for the new retaining wall. Mrs. Aprile indicated that they have a structural engineer that will be working with the architect when the house design happens, and that will be included in the final plans. Mr. Palumbo noted the need for top and bottom elevations on the retaining wall.

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Mr. Smeenck inquired what they'll do with water drainage on the property, and Mrs. Aprile commented that the property doesn't get much runoff. She indicated that during flash floods the north side gets some water, but Mr. Grove has proposed a drainage tile along the perimeter. Mr. Grove indicated that there is surface flow in front of the garage, and that there will be a foundation drain around the addition and garage. Mr. Smeenck commented that there's nowhere to daylight a drain there, and it was discussed that the water flows north there. Mr. Palumbo commented that the neighboring property has a big draw right to the back of the house and will be putting in drainage as part of their construction project, and Mr. Smeenck inquired whether they would be tying into that, and they indicated they would not.

It was discussed that a survey of the neighboring property is being done, and Mrs. Aprile indicated that her drainage system is separate from the neighbor's. There was also discussion of the need for this plan to work with the neighbor's project. Mrs. Aprile commented that they are being vigilant about not having any more water coming onto their property and that it currently drains nicely. Mr. Palumbo inquired if there is surface discharge, and Mr. Grove indicated that there is, and that there are graded drainages. Mr. Palumbo commented that the discharge north will go where the old driveway used to be, so they need to put in a swale to get it to divert away from the road. Mr. Grove commented that it's now impossible to keep water from going into the road, and Mr. Palumbo indicated that drainage needs to be located such that it's not impacting underground. Mr. Smeenck commented that an eighteen inch culvert pipe has been added at the corner there, so if they can get all the water to slope that way it will work, but if it floods it will come over the road. Mr. Palumbo commented that they ought to direct the drainage from the south of the property to the north.

Mr. Smeenck inquired whether the two existing accessory buildings have bathrooms, and Mrs. Aprile indicated they don't; one is an office with no plumbing, and the second is a seasonal guest cabin used once a year. Mr. Palumbo commented that the septic is designed for five bedrooms and confirmed that they do not have that many.

Mr. Palumbo commented that the Board is hearing lots of concern about water coming across and eroding the road, so they should be sure to extend the drainage to avoid this. Mrs. Aprile commented that the foundation wall for the basement has always been dry and already is not catching flow there.

Mr. Stringer commented that it's a small space to work with for an addition, and while it could be engineered in consideration of water flow, he's concerned that the need for three variances to make it fit on the lot indicates that the project is too big. Mrs. Aprile

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commented that the variance requests are in line with the existing structure and they're not asking to go any closer to the road. Mrs. Aprile commented that to move further back from the road would be a hardship as it would mean going further back into the hill. Mr. Grove commented that the existing house and garage are pre-existing, non-conforming, and it's not practical to build in a way that meets the front setback requirement.

Mr. Stringer inquired whether they could shrink the size of the addition, and Mrs. Aprile commented that she wouldn't have room for a family room and kitchen if they did, and that pushing it back further would look odd.

Mr. Smeenck indicated that they are looking for three variances: one for the driveway, one for the retaining wall, and one for the front setback. There was general discussion about the possibility of their only asking for variances for the addition and not the driveway. Mr. Grove commented that the front retaining wall is only 3.5 feet at its highest point, and Mrs. Aprile commented that she's asking for a smaller variance than their neighbor received.

There was discussion about the Planning Board's consideration of setbacks in making decisions; they can consider them and make recommendations but can't approve setback variances.

CEO Kane commented that Mr. Stringer's concern is valid in that it is a tight space in terms of dealing with water, and there was discussion that it doesn't make ecological sense to move the house back into the slope. Mr. Palumbo commented that if they don't get the variances they wouldn't have room for the addition and water drainage. Mrs. Aprile commented that the driveway is a hardship because it's not usable due to its steepness. Mr. Duffy commented that moving the addition back doesn't make sense and wouldn't look right.

Mr. Stringer expressed that he's concerned that the variance is a huge request, and Mr. Grove commented that it's not making the lot more non-conforming. Mr. Smeenck commented that it is making the lot more more non-conforming due to the driveway variances.

CEO Kane indicated that the application needs to move forward to the ZBA. There was general discussion about whether the Planning Board should vote at this meeting, and whether the pre-existing, non-conforming status and drainage issues make the variances reasonable. Mr. Duffy commented that the driveway is so steep this will help her.

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Mr. Smeenck indicated that he wants to wait to vote until the application goes to the ZBA. Mr. Grove commented that the purpose for presenting last month was because they can't go to the ZBA without a recommendation from the Planning Board, and they've done everything they've been asked to do.

Mr. Stringer commented that he still feels it's too big of a project, he doesn't like the setback, and agrees with Mr. Smeenck that he wouldn't approve the site plan due to the variances. CEO Kane commented that variances can be considered as part of a site plan review, but ultimately they are decided by the ZBA, and they need to stick to the site plan and remember that the requested changes to the application were made.

Mr. Smeenck inquired whether the Planning Board has to make a recommendation to the ZBA, and CEO Kane commented that it's always helpful, but not necessary. Mr. Palumbo commented that they need to address the approval, and it can be contingent on ZBA approval. Mrs. Aprile commented that she's not sure she's willing to give up the proposed driveway changes and she wants this property to be usable year round.

There was discussion that last month's presentation was an introduction to the project, and the Highway Department has since expressed concern about water going over the road and causing erosion. There was also discussion about water discharge being tied in and regraded to move north. Mr. Palumbo indicated that a concern is the retaining wall being too close to the road, to which Mrs. Aprile responded that there's already a wall there.

CEO Kane commented that the footprint they have is small, everyone has a right to have a usable garage, and the request is less than what's existing, but there's pressure to keep structures and buildings off the road after the new paving.

Mr. Smeenck made a motion to send the application to the ZBA without any comment from the Planning Board, Mr. Stringer seconded, all Board members voted in favor and the motion passed.

There was further discussion that Mrs. Aprile will need to come back to the Planning Board for final approval, and she could now have preliminary approval subject to ZBA approval. If she doesn't get ZBA approval she'll need to come back with a revised plan. Mr. Grove inquired whether the Board would approve of the plan if the setbacks weren't a concern, and Mr. Duffy responded that he believes it betters the site and it would be good to update the retaining wall, which is in rough shape.



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CEO Kane indicated that the options are to approve the preliminary site plan or to approve the site plan with conditions; if the latter is chosen the project moves forward, and if it doesn't get ZBA approval they'll have to redo the plans anyway and come back to the Planning Board.

Mr. Stringer commented that without the variances it is a good plan from an engineering standpoint.

Mr. Smeenk made a motion to give preliminary approval subject to their obtaining variances from the ZBA, making sure grading for discharge is shown on the plans, and ensuring water discharges to the north. Mr. Duffy seconded, all Board members voted in favor and the motion passed.

### **NEW BUSINESS:**

#### **3. Site Plan Review: App. # 092524 - SPR**

**Thomas Siebert, owner of property at Tuscany Lane in Middlesex, NY 14507 (Tax Map ID# 11.76-1-3), is seeking a site plan review for construction of a tennis court.**

Thomas Siebert was representing. Mr. Duffy inquired if the tennis court site is behind the big barn on the property, and Mr. Siebert said it is, and that it lies within setback requirements. He noted that only one neighbor would see the court, and he plans to help support this neighbor's road using spoils from the excavation. He explained that the site would be excavated down six to eight inches and filled with crusher #1, then topped with asphalt and the court surface.

Mr. Siebert explained that the court will run north to south, with a black fence on the back, which will taper out six to seven feet, and the court itself will be approximately thirty-six by seventy-eight feet in dimension, with a total coverage of sixty by 120 feet including the asphalt border. He plans to do the excavation and site work himself and hire out the paving.

Mr. Smeenk inquired if he plans to have lighting, and Mr. Siebert indicated he does not. Mr. Smeenk also inquired if the barn has a bathroom, and Mr. Siebert indicated it does not.

Mr. Smeenk asked if the project meets setback and variance codes, and CEO Kane responded that it does. Mr. Smeenk commented that the project falls under special conditions and inquired what that means for the application, and CEO Kane indicated

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that a special condition requires a site plan review. Mr. Siebert commented that he will stay away from the willow trees nearby so as not to hurt them.

Mr. Stringer made a motion to approve the site plan, Mr. Duffy seconded, all Board members voted in favor and the motion passed.

Mr. Siebert says he plans to landscape the court well, and to pitch the slope one degree west to east with swales for drainage.

### **4. Site Plan Review: App. # 091824 - SPR**

**Brittney Lardner and Taylor Lazzaro, owners of property at 5924 North Vine Valley Road, Rushville, NY 14544 (Tax Map ID# 012.01-1-7), are seeking a site plan review for construction of a residence.**

Mrs. Lardner and Mr. Lazzaro were representing. They explained that they are proposing to build a new residence on their property.

Mr. Smeenck inquired if the single wide trailer currently on the property will be removed, and the applicants indicated it will be. The applicants also explained that the property is 1.7 acres, and the new residence will have three bedrooms. There was discussion that the plans estimate 390 gallons per day of water usage, based on 130 gallons per bedroom as required by State design guidelines. CEO Kane indicated that the septic design has received the necessary approvals and was designed by Kostich.

Mr. Smeenck inquired if the septic needs setback minimums from the road, and Mr. Palumbo indicated that ten feet from the property line is required.

Mr. Smeenck commented that he would like the drawings to reflect that the existing home will be removed once the new house is livable. The applicants indicated that the home will be removed before construction begins.

Mr. Smeenck inquired if they would be maintaining the existing driveway, and they indicated they would not be extending it at this point.

Mr. Smeenck asked if the house is to be one story, and the applicants indicated it is, and Mr. Smeenck noted that the house will meet the required minimum 850 square feet for a single story home. Mr. Duffy commented that the project looks good and asked when they hope to begin, and Mr. Lazzaro indicated they would like to begin as soon as they receive the building permit. Mr. Duffy asked how long they have lived at the property, and they indicated they'd lived there for ten years.

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Mr. Smeenck commented that they will need erosion control mat behind the house, and Mrs. Lardner inquired whether that should be added to a new site plan. Mr. Palumbo indicated that it will be a condition for approval and the builders will add it to the site plan when they submit the application for a building permit.

Mr. Duffy inquired whether the well should be added into the limit of disturbance, and it was discussed that there's a trench to the well and the well is just outside of the limit.

Mr. Smeenck inquired if they have septic approval, and CEO Kane confirmed that they have been approved by the Canandaigua Watershed. Mr. Duffy asked if the silt fence between the bottom of the septic and other silt fence could be connected, and Mr. Means indicated that it would not be needed because that line is not parallel to the contour.

Mr. Smeenck made a motion to approve the application with the condition that the following changes be made to the plans: drawings showing erosion control to the north of the house be submitted; the intent to remove the existing home be stated in the plans; the limit of disturbance shall be extended around the well, and CEO Kane shall receive a copy of the septic approval. Mr. Stringer seconded, all Board members voted in favor, and the motion passed.

### **OLD BUSINESS:**

#### **5. Site Plan Review: App. # 052024 - SPR**

**William Dowell, owner of property at 614 East Lake Road, Middlesex, NY 14507 (Tax Map ID# 11.42-1-3.11), is seeking a site plan review for construction of a garage.**

Bill Dowell was representing. Mr. Dowell explained that he has downsized the garage from his original plan, as rotating the garage to meet setback requirements would have been too difficult.

Mr. Smeenck asked for confirmation that there would be no bathroom or water in the garage, and Mr. Dowell confirmed there would not be. He indicated that it would house two vehicles, storage, and an upstairs loft.

Mr. Smeenck inquired whether the application requires anything different because the garage will be over 500 square feet and lies within the steep slope area. There was also discussion that half of the garage footprint will be on flat ground, and the back wall will also serve as a retaining wall. It was agreed that the application will need a steep slope permit due to these elements.

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Mr. Duffy inquired where the water from the existing swale will go, and Mr. Dowell explained that they will run perforated pipe and stone in the existing swale and try to have the water fan out where it meets the neighboring property, as it has always done.

Mr. Smeenk asked the purpose of the second garage door on the upper level, and Mr. Dowell indicated it will allow him to move furniture out of the workshop without having to go downstairs, and that the door opens onto grass and there is no plan to put a driveway at that door.

Mr. Smeenk inquired about the step foundations on the map, and Mr. Dowell indicated that they show the footings for the wall block, which will be a wire mesh stacking block reinforced with rebar and filled with concrete.

CEO Kane asked if any trees would be coming out, and Mr. Dowell said there would not be.

Mr. Smeenk indicated that the Board could give preliminary approval, with final approval given after submission of a steep slope permit. CEO Kane commented that the garage is allowed under code, and the plans already meet all of the steep slope requirements. She reviewed the steep slope code and confirmed that all conditions were met in the plans as stated.

Mr. Smeenk inquired where the existing septic is, and Mr. Dowell indicated the location on the map and commented that the garage will not interfere with the septic.

Mr. Duffy commented that there was a previous concern about the garage causing too much coverage on one parcel, but it was discussed that Mr. Dowell downsized the garage to stay within the lot coverage limits, and therefore no variances are needed now.

Mr. Stringer made a motion to approve the application subject to submission of a steep slope application, Mr. Duffy seconded, all Board members voted in favor and the motion passed.

Mr. Smeenk made a motion to adjourn the meeting at 8:57, all Board members voted in favor and the motion passed.