

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

PLANNING BOARD
Wednesday, December 4, 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
Gordon Stringer

Alternate: Position vacant

Staff present: 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.

OLD BUSINESS:

1. Site Plan Review: App. #112724 - SPR

Jennifer Sherwood, owner of property at 306 East Lake Road, Rushville, NY, 14544 (Tax Map ID# 2.61-1-8) is seeking a preliminary site plan review for construction of a residence.

Wendy Meagher of Meagher Engineering was representing Mrs. Sherwood. Mr. Smeenck commented that Mrs. Meagher had presented a broad overview of the project at the October meeting and asked what is now being proposed.

Mrs. Meagher indicated that she added details for erosion control, stormwater management and the septic system, and has met building codes on all aspects except the building height. She also indicated that she submitted a steep slope application. She commented that the disturbance to the lot would comprise a little over one half of an acre, and that she located the proposed house away from the steep embankment while keeping the wooded area intact. Mrs. Meagher commented that they are looking to use the neighboring driveway to access the site in order to minimize disturbance.

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Mrs. Meagher indicated that they will use a pump station from down below to bring water up to the septic system at the house. She also commented that she relocated the septic system to the north side of the house for accessibility, and that she heard back from the County regarding the septic design and now will go to the DEC; she indicated that due to the size of the house the system will need to be designed for an eight bedroom load, to handle over 1000 gallons/day, and that the system will be over two-hundred feet from the waterfront.

Mr. Smeenck asked if shared driveways are allowed, and CEO Kane indicated that the code states that if two or more residences use a driveway it must be built to state road standards.

Mr. Palumbo commented that if the system will handle more than one thousand gallons per day a sanitary system would be needed.

Mrs. Meagher commented that the applicant has an easement access agreement with the neighboring property.

CEO Kane asked Mrs. Meagher to clarify the reasoning for designing the septic for an eight bedroom system, and Mrs. Meagher answered that although it will only have four bedrooms, the overall size of the house, as well as the need to accommodate soaker tubs, necessitates an eight bedroom design.

Mr. Palumbo inquired how many beds are in the cottage below, and Mrs. Meagher indicated there is one, which will be considered one of the eight total bedrooms.

CEO Kane commented that the approval for the septic design was moved to the DEC because it's rated for over one thousand gallons per day. Mrs. Meagher indicated that the actual calculations come out at 1,080 gallons per day, and CEO Kane asked what that means for the design. Mrs. Meagher commented that the perc test was designed conservatively, so this won't change the design on the plans. CEO Kane asked if this would now require a SPDES permit, and Mrs. Meagher indicated it would.

Mr. Smeenck commented that this is an extremely steep slope and doesn't allow for construction of a new house, though it would allow a rebuild of an existing home. Mrs. Meagher responded that the slope is between thirty and thirty-five percent, which does allow for a residence. Mr. Smeenck replied that he calculates closer to forty-eight to forty-nine percent slope up the lot lines. Mrs. Meagher indicated that she figured a thirty-three percent slope using contours, and Mr. Palumbo inquired if she had done a

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zone slope map, which Mrs. Meagher indicated she had. Mr. Palumbo indicated that the Board would need to see that map.

Mr. Smeenk commented that the first zone is within one thousand horizontal feet of the high water mark, and the whole property is within two thousand feet of it, with an area of disturbance at about fifty-five percent of the lot. He asked Mrs. Meagher if she is asking for waivers for those requirements.

Mrs. Meagher indicated that where the house is being constructed it meets the requirements for a single family residence. Mr. Smeenk commented that from the lake level to the road the total distance and elevation change is higher, to which Mrs. Meagher replied that they will only be disturbing the area above the cliff, over thirty-three feet back from the edge. Mr. Smeenk and Mr. Palumbo briefly discussed whether the steep slope codes require analysis of the entire site or only the specific area of construction.

Mrs. Meagher indicated that she is looking to use a tram from the main house down to the shoreline, and that Finger Lakes Tram has done a design, as well as geotech analysis and deep holes to test the soils for bedrock. Mr. Palumbo asked if she has a geotech report, and Mrs. Meagher indicated that they dug deep holes at eight to ten feet where the house foundations would be to confirm that they won't hit bedrock, and that all the deep hole and perc tests are documented on the plans.

Mrs. Meagher indicated that she received comments from Stantec and could address those. She also indicated that a stormwater analysis was done looking at containing a one hundred year storm, and she has the engineer's report for drainage and septic.

Mr. Palumbo commented to the Board that they should look at the level of disturbance the project would create.

Mr. Duffy inquired how many square feet the home will be, and Mrs. Meagher indicated it will be 6,800 square feet and four stories high, with three stories to be living space. She also indicated that they will install a sprinkler system.

Mr. Duffy inquired how many variances would be needed, and Mrs. Meagher indicated they would need one for the building height. Mr. Duffy expressed concern about the size of the house and isn't sure it fits into the Town Master Plan. He commented that it would be a lot of house going on an incredibly steep slope, and that it would be a very challenging build requiring variances, so he is hesitant about the project.

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Mrs. Meagher commented that they could lower the house by burying the lower floor deeper, but that would cause more disturbance, and they are trying to minimize disturbance by building up rather than out.

Mr. Stringer commented that the height variance is minimal compared to the footprint and complexity of the house, and as the Master Plan tries to maintain a rural atmosphere he doesn't think this project fits with that goal.

Mrs. Meagher agreed that it is a challenging site, and commented that height variances are usually meant to keep buildings from blocking views, but this won't block any views. She commented that the project is challenging due to the steep slope, but the footprint is within code as far as setbacks and lot coverage and she can address all the technical aspects of the site with the Town engineer.

Mr. Stringer commented that he understands the technical challenges could be overcome, but even though this can be done maybe it shouldn't be done.

Mrs. Meagher commented that the applicant grew up in the Finger Lakes, her family is here, and she wants to invest her money in Middlesex and reside here. She reiterated that the project meets code requirements.

Mr. Smeenk indicated that the project doesn't meet steep slope requirements because the area of disturbance will be over five hundred square feet, and any disturbance over that needs a waiver from the Planning Board. He commented that there's a house down below that could be rebuilt instead

Mr. Palumbo commented that while it's not a small site, there would be extensive work done. Mr. Smeenk commented that over fifty percent of the site will be disturbed, and a lot of trees will need to be removed to get the septic system and house in, and this is why the steep slope laws were put in place. Mr. Stringer commented that there are too many chances for a failure with that level of construction.

Mrs. Meagher inquired if this means someone can only build a five hundred square feet house, and Mr. Smeenk clarified that that's the maximum disturbance allowed. He furthered that if the applicant wanted to reconsider the footprint it could be reconsidered, but this code preexists the purchase of the property.

Mrs. Meagher commented that when she came in October it seemed as though there wasn't a concern with the house, and Mr. Smeenk commented that it was the first time

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they'd looked at the plans and have since had time to review the maps and visit the site, and he believes it's too big for this site.

Mrs. Meagher indicated that Huff Construction will do the work and will take a lot of care.

Mr. Duffy commented that the house just seems huge, and he grew up here too and understands wanting to move back but wondered if there is any flexibility on house size based on these concerns. Mrs. Meagher responded that she'd need to communicate with the applicant about that.

Mr. Stringer commented that they would first need to comply with the steep slope disturbance requirements.

Mrs. Meagher commented that she doesn't think the applicant would agree to a five hundred square foot house.

Mr. Palumbo commented that other applications are more in concert with the wooded areas and organize the systems to fit in with those.

Mr. Duffy commented that this needs to be viewed holistically, and that this project would result in significant disturbance to the north, the shared access driveway would have to be brought up to state standards, to which CEO Kane commented that a variance would be needed as that would be impossible, and Mr. Duffy continued that there's more to this project than what is presented.

Mrs. Meagher commented that the shared driveway is already being used, and Mr. Smeenk indicated it was not being used by this property. CEO Kane reiterated that the shared driveway would require a variance, and that there currently is a grassy path being used to access the property, so technically there is a driveway on the property already.

Bill Grove, in attendance, commented that he doesn't think the steep slope requirements limit disturbance to five hundred square feet when related to a permitted use, and very steep slopes still allow for a single family residence. Mr. Palumbo responded that they still need steep slope approval.

Mr. Palumbo and Mr. Smeenk inquired if smaller septic systems would require less disturbance.

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Mrs. Meagher commented that the cabin down below will just be renovated, and Mr. Palumbo inquired if it's accessed by the water, and Mrs. Meagher indicated it is. Mr. Smeenck commented that the renovation still requires significant construction as it needs new windows, doors, a roof and flooring, and will mostly be rebuilt. He commented that construction of a new house more moderately sized, or just fixing the house below, would be more in keeping with the intent of the Town code, but the proposed house is almost ninety feet wide.

Mrs. Meagher commented that they will have stairs and a tram to access different levels.

Mr. Smeenck commented that it's too much house for that site. CEO Kane asked the Board if they are saying the house is too big. Mr. Stringer commented that the six feet height variance isn't the issue, and CEO Kane commented that the disturbance is the main issue.

Mr. Smeenck commented that there will be the house, septic, decks, retaining walls, patio, and the cross section shows a ten feet high wall going on top of the slope, with material being added to the top of the slope making it steeper.

Mrs. Meagher commented that they will be catching all the stormwater so runoff will be less than predeveloped conditions, and they will have devices to store stormwater. She indicated that the water will discharge to a ravine on the south side of the property. Mr. Smeenck indicated that he's unlikely to approve this project at this scale, that if the house were smaller and required a smaller septic it would help, but this is too much house and development for this site.

Mrs. Meagher asked if there were any questions about the technical details of the stormwater management.

Mr. Smeenck reiterated that the total area of disturbance of the project would not meet the requirements of the steep slope law.

CEO Kane asked the Board what kind of decision they are making, and whether they are denying the project or asking for revisions. Mr. Smeenck commented that he'd be more inclined to approve a construction project that wasn't this size on this lot; if the site was bigger he would consider it. Mr. Stringer indicated that as it's presented now he would deny the project.

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Mrs. Meagher asked if the Board would table the discussion so she could ask her client what they want to do. She indicated that if they go back to the drawing board it will take a few months before they could come back.

Mr. Smeenck indicated that the Board would be willing to table the discussion.

There was discussion that there are some old gas cans, barrels and tanks on the site that would need to be cleaned up.

NEW BUSINESS:

1. Site Plan Review: App. #112024 - SPR

Danny O. Bagley, owner of property on Bagley Road, Middlesex, NY, 14507 (Tax Map ID# 3.03 -1-12) is seeking a site plan review for a minor subdivision.

Mr. Bagley was representing. CEO Kane indicated that the applicant would like to subdivide a piece of his property, and it meets the minimum subdivision requirements.

Mr. Smeenck asked what the intent of the subdivision is, and Mr. Bagley indicated that he would like to cut back and will sell the parcel to a farmer who needs more acreage for corn for his dairy cattle.

Mr. Smeenck asked if there were any public comments, and there were none.

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

2. Site Plan Review: App. #112124 - SPR

Chris Apple, owner of property at 688 East Lake Road, Middlesex, NY, 14507 (Tax Map ID# 11.58-1-1), is seeking a site plan review for construction of a residence.

Bill Grove of Grove Engineering was representing Mr. Apple.

Mr. Smeenck inquired if they would be tearing down the existing house, and Mr. Grove indicated they would. Mr. Grove indicated that the applicant came to him over a year ago for a septic design and indicated they did not have any plans to add on to the house, so he designed a system for that situation. Mr. Grove indicated that two months

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ago the applicant decided to tear down the house and build a new one, so they now need a new septic system.

Mr. Grove indicated that he came up with a site plan with a septic for a four bedroom house, but the Canandaigua Lake Watershed wants it to be sized for a five bedroom house because wastewater law takes into account the square footage of a house regardless of the number of bedrooms. Mr. Grove commented that Mr. Ohler of the Canandaigua Lake Watershed wants the basement included in the space, so it bumped into a five bedroom system with a leach field increase. He indicated that he doesn't have full comments back from Mr. Ohler yet.

Mr. Grove indicated that the house is 1,600 square feet in footprint, plus a garage, for a total of 4,600 square feet of space. He commented that a relatively small footprint adds up to a lot of conditioned space, with two stories and a walkout in front. He indicated that they will reuse the existing water intake from the lake, and there is no driveway access to the existing cottage, but rather parking up top.

Mr. Smeenck asked if the proposed driveway will be paved, and Mr. Grove indicated that it's not stated in the plans, but probably will be in the future. He also indicated that there will be a low point at the bottom of the driveway to catch water flowing down.

Mr. Stringer asked for clarification whether the driveway is a right of way, and Mr. Grove indicated that it is. Mr. Smeenck asked if the shared driveway situation is pre existing, and CEO Kane indicated that it has been shared for over one hundred years.

Mr. Smeenck asked whether Mr. Grove knew the area of disturbance, and Mr. Grove indicated it would be approximately one half acre. Mr. Grove also indicated that parts of the property are on a steep slope, but where the house is to be built is not a steep slope. Mr. Palumbo asked if they are considering the slope to be over fifteen percent, and Mr. Grove indicated that they are, but nothing is over a twenty-five percent slope.

Mr. Duffy inquired whether they would come back to the Planning Board when they get a new septic design and whether the limits of disturbance will change. Mr. Grove indicated that although they may shift the placement of the construction a few feet, the limits of disturbance will not change, and he hopes the Board can make septic approval a condition of approval for the project.

Mr. Smeenck inquired how the new footprint will overlay the old footprint, and Mr. Grove pointed it out on the map. Mr. Smeenck asked if the masonry wall is new or existing, and Mr. Grove indicated that it is existing.

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Mr. Stringer inquired where the parking area will be, and Mr. Grove indicated that there will still be a parking area up top, but there will also be more parking down at the house.

Mr. Palumbo asked whether the bank at the end of the right of way will be moved or regraded, and Mr. Grove indicated that they will not touch the bank.

Mr. Smeenck asked whether the garage will be for one car, and Mr. Grove indicated it would be a one and a half car garage and showed the Board elevations for the garage on a map on his phone. Mr. Smeenck asked the Board if they want an engineer to look at the plans, and Mr. Duffy and Mr. Stringer commented that the site is fairly flat.

Mr. Smeenck commented that he'd like to see silt fence up by the area of disturbance instead of down by the water, and Mr. Palumbo commented that it should be installed along the contour midway between the water and build site. Mr. Grove agreed.

Mr. Palumbo suggested that the plans show 4 in 1 for stabilization on the graded area so the contractor knows where to install it.

Mr. Smeenck made a motion to approve the application subject to installing a second silt fence on the lake side of the house at the top of the slope, showing the location of rolled erosion control product on the plans, and final septic approval.

Mr. Palumbo asked whether the motion should include a note about potential future paving of the driveway, and Mr. Smeenck indicated he would not as long as it doesn't change the area of coverage. Mr. Stringer inquired whether they would need a permit if they decide to pave, and CEO Kane indicated they would not. Mr. Stringer asked what they would do with runoff down a paved driveway, and Mr. Smeenck commented that if they were to pave the current parking area they would need to see calculations for that, but that he doesn't want to add paving to the motion. CEO Kane reiterated that they don't need permits for paving. Mr. Smeenck commented that it's conceivable for the coverage to go over twenty percent, and Mr. Palumbo indicated that the coverage would not be changed. It was agreed not to mention paving in the motion.

Mr. Duffy seconded the motion, there was no discussion, all Board members voted in favor, and the motion passed.

3. Site Plan Review: App. # 112824 - SPR

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Michael Maddox, owner of property at 867 South Lake Road, Middlesex, NY, 14507 (Tax Map ID# 21.02-1-1.12), is seeking a site plan review for a lot line revision.

Anthony Venezia of Venezia & Associates was representing Mr. Maddox.

CEO Kane summarized that the portion of property on Viewboard Road will go into Low Density Residential and the parcel below will be absorbed into another parcel.

Mr. Venezia indicated that they are seeking a lot line revision resulting in Mr. Maddox retaining the lower section by South Lake Road, as well as a logging road access up to Viewboard Road. He explained the existing and proposed lot line revisions on the map, indicating that there will continue to be three lots as is now the case .

There was general discussion about how the sizes and configurations of the lots would change, and that all proposed lots will meet codes, including frontage requirements, according to Low Density Residential and Lake Residential zoning law.

There was also discussion that a neighbor will be buying one of the new lots, and two lots are being combined into one. Mr. Venezia commented that one of the proposed new lots is very long, but allows for use of the logging road. CEO Kane commented that the lot is an odd shape, but allows for the logging road access, and Mr. Maddox now won't have the land he was previously logging.

There was general discussion that there probably won't be any building on the new lot. Mr. Duffy asked for clarification on where an extra fifty feet is coming from, and Mr. Venezia showed him on the map where a bearing change was made.

Mr. Duffy made a motion to approve the application, Mr. Stringer seconded, there was no discussion, all Board members voted in favor, and the motion passed.

OTHER BUSINESS:

There was discussion that regarding the Sherwood application it's important to clarify that the size of disturbance is the problem, not that the lot is undevelopable. Mr. Palumbo commented that the Board should read section 707 of the Town code again as it pertains to moderate, very and extremely steep slopes. Mr. Smeenck commented that he didn't realize one could segment into zones regarding varying slopes on properties. Mr. Palumbo commented that projects are supposed to do a zone map and use topography to break it into zones.

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Mr. Duffy inquired whether Kevin Olvaney at the Canandaigua Watershed has LIDAR, and CEO Kane commented that we have the maps and can use the data from them. There was discussion that they can use public data to figure out slopes, and that the Sherwood lot is very difficult to walk because it's so steep.

There was discussion about how the Sherwood application is a concept plan, the disturbance would be big, the septic system is very large, and putting it all together the project is huge. Mr. Palumbo commented that he is curious what the DEC will say about the septic systems and the point discharge from it. There was discussion that this would be the largest septic system and home in Middlesex, and is proposed on a thirty percent slope.

CEO Kane indicated that she would advise Mrs. Meagher to see what happens with the DEC septic system permit before coming back to the Planning Board. Mr. Palumbo indicated that Mrs. Meagher should tell her client that the proposed home is not in character with the Town, and while there have been large projects here, they have been on columns and detached from the slope, but no houses as large as this have been done.

There was discussion that the amount of clearing this project would require would be seen from all over, as well as across the lake. CEO Kane commented that the steep slope law was not put in place to stop building on the steep slopes, but rather to ensure that the right things are built in them.

Mr. Smeenck asked if there were any comments on the November draft meeting minutes, and there were none. Mr. Smeenck made a motion to accept the November minutes, Mr. Duffy seconded, all Board members voted in favor and the motion passed.

Mr. Smeenck noted that the January meeting will need to be moved because it falls on New Year's Day, and it was agreed to move the meeting to January 8th.

CEO Kane indicated that the Town Board granted a one year extension for the solar moratorium. It was discussed and agreed that a work session to discuss the solar law would be held on January 15 from 6:00 p.m. - 8:00 p.m. Mr. Smeenck indicated to the Board that he would write something up for their review and discussion at the session.

Mr. Smeenck adjourned the meeting at 8:27 p.m.