

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

ZONING BOARD OF APPEALS Thursday, May 15, 2025 • 7:00 p.m.

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

Meeting called by: Ted Carman, *Chairperson*

Board members present: Win Harper
Richard DeMallie

Alternate: Position vacant

Staff present: Alan Pearce, *Code Enforcement Officer*
Beth Altemus, *Zoning Board of Appeals Clerk*

Mr. Carman called the meeting to order at 6:59 p.m.

NEW BUSINESS:

1. App. # 043025 - ZBA

David Seconi and Bridget Shumway Seconi, owners of property at 989 South Lake Road, Middlesex, NY, 14507 (Tax Map ID# 21.33-1-10.0), is seeking a variance for a side setback of a home renovation.

Ms. Seconi was representing. She indicated on the map where the requested variance is located. She commented that the site is challenging, with streams to the north and south, and her design team has made many modifications to limit the size of the setback and the amount of disturbance behind the house. She also indicated that the requested setback is for thirteen feet four inches, or a one foot eight-inch variance, to the north where the line of vision leads to a wooded area and a stream. Ms. Seconi commented that the purpose of the renovation is to create a family gathering area and a year round living situation.

Mr. DeMallie commented that the plans include a note for a continuous stepped walkway along the new basement on the north side and inquired if this would be constructed in the setback, to

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which Mr. Carman responded that it would be. He also asked if there were any details regarding railings, and Mrs. Seconi was unsure.

Mr. Demallie asked whether the gutters would flow onto the walkway, and he commented that if so it could cause the walkway to become slippery. Mrs. Seconi indicated that she would talk with the contractor about this.

Mr. DeMallie inquired how the lawn on the east side would be mowed, and Mrs. Seconi indicated that currently mowing is accomplished with a push mower and will continue to be done that way after the renovation.

Mr. Carman opened the public hearing. There were no public comments. Mr. Carman closed the public hearing.

There was a brief discussion that the Seconi's property extends into the creek bed to the north.

Mr. DeMallie made a motion to grant the requested variance. Mr. Harper seconded.

Per the Area Variance criteria, Mr. DeMallie answered the following:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties would be created:

No, the variance is so small, and cars travel by at more than 25 mph and people don't tend to look to the right or left as they drive by, so the character will not change.

2. Whether the benefit requested by the applicant could be achieved by some method, feasible for the applicant to pursue, other than a variance:

No, there have been several design attempts to get to this point, so their asking for this variance suggests no other method is feasible.

3. Whether the requested variance is substantial:

No, it's very small and therefore not substantial.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:

No, that corner will remain out of the gully, and I can't visualize any adverse effect, except for how the gutters will flow and whether a railing will be needed along the walkway.

5. Whether the alleged difficulty was self-created:

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Yes, but this does not preclude the granting of the variance.

There was a discussion that a second variance will be needed if the walkway is to be constructed as it would be considered an attached structure and would encroach further into the setback. It was also discussed that this variance request would need to be addressed at a later meeting as it was not advertised for this hearing.

Ms. Seconi indicated that she isn't certain of the details of the stepped walkway, or whether it will be in the final construction. There was discussion about whether they should withdraw the current request and resubmit a new application that includes the walkway variance, however it was agreed that given the possibility that the walkway will not be constructed Ms. Seconi would proceed with the current request and submit a new request in the event the walkway is to be constructed.

All Board members voted in favor, none opposed, and the motion passed.

Ms. Seconi inquired whether the plans should be modified if the walkway is to be omitted, and the Board indicated that they do not. It was agreed that the applicants would return to the ZBA with a new variance request should the walkway be included.

2. App. # 041625 - ZBA & App. # 041625B - ZBA

Jennifer Sherwood, owner of property at 306 East Lake Road, Middlesex, NY, 14507 (Tax Map ID# 2.61-1-8), is seeking a height variance for a new residence (App.# 041625 - ZBA) and a special use permit for construction of a private road (App.# 041625B - ZBA).

Wendy Meagher of Meagher Engineering was representing.

Ms. Meagher explained that the site slopes down to a small structure at the shore and a man made dug roadway currently exists on the property. She indicated that she would address the request for a special use permit for a private road first, noting that her client wants to share the neighboring driveway to minimize disturbance and leave room for the septic at the top of the hill.

Ms. Meagher indicated that the drive is currently nine feet wide, and will be widened to twelve feet to comply with the code requirements for a private road. She also indicated that the entrance will be reinforced, and explained how stormwater is to flow and be diverted to improve the current condition.

Ms. Meagher indicated that the neighbor's driveway encroaches on Ms. Sherwood's property, so a reciprocating easement will be drawn up, and the neighbor has written a letter of intent in favor of this.

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There was a discussion that the new driveway will be considered a private road as it will be used by two or more homes, and there are strict construction standards for a private road. Mr. Carman indicated that section 703 of the Town zoning law and Local Law 3 address these requirements. Mr. Carman commented that if the special use permit is approved it must be with the understanding that it will meet the construction criteria for a private road, as spelled out in the code. It was discussed that some of the requirements for construction of a private road may not make sense on a steep slope, so they may need to be interpreted, however the Planning Board would be responsible for this.

It was also discussed that a recommendation from the Planning Board is required for a shared private road to be considered by the Zoning Board, and the Zoning Board has received this recommendation from the Planning Board; the Planning Board recommended this as it will provide the least amount of disturbance to the site. Mr. Harper commented that section 703 also says that there will be no private roads in the Lake Residential district, so the Planning Board is recommending the Board not adhere to that.

There was also discussion that the entirety of the shared driveway, including the portion that diverts from the shared portion to Ms. Sherwood's home, is to be built to the standards set forth for a private road.

Ms. Meagher commented that the ZBA previously approved a pre-existing driveway to be shared with another owner and was not deemed a private road, and Mr. Carman commented that prior rulings do not establish precedence and each application is considered on its own merits.

Mr. Carman opened the public hearing at 7:42 p.m.

Dave Wilson, in attendance, asked for clarification of the rainwater diversion plan for the driveway. Ms. Meagher explained that currently water comes directly down towards the neighboring property, and the new driveway will intercept that water with curtain drains and catch basins and send it to pipes with controlled outflow onto the Sherwood property. Mr. Wilson inquired what the volume of the pipes will be, and Ms. Meagher indicated that they will hold a one hundred year storm event.

It was discussed that the reciprocating easement will be drawn up and filed, and will become part of the deeds of both properties. Both the Sherwoods and the neighbor, as well as the Planning Board, will receive a copy of this easement.

Mr. Carman closed the public hearing at 7:45 p.m.

Mr. Harper made a motion to approve the shared use as outlined and recommended by the Planning Board. Mr. DeMallie seconded.

Per the Special Use Permit criteria, Mr. Harper answered the following:

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1. *That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected.*

Yes, as this is recommended by the Planning Board I feel confident that they and the zoning will oversee this. Mr. Carman commented that it may not yet be approved by the Fire and EMS agencies, but it will need to be.

2. *That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.*

Yes, it will not cause injury to other properties, and will probably increase the values of both properties.

3. *That adequate landscaping and screening is provided.*

Yes, the Code Enforcement Officer will ensure this.

4. *That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.*

Yes, the parking area on East Lake Road will be improved and will allow cars to safely pull off the road.

5. *That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.*

Yes, water runoff will be mitigated, and as the Planning Board approved the road I'm confident it will happen.

6. *That existing roads and utilities serving the proposed project are determined to be adequate.*

Yes, the Planning Board recommended we approve the road, and I'm confident this is true.

All Board members voted in favor, none opposed, and the motion passed.

Ms. Meagher addressed the variance request for the roof height. She indicated that the average grades around the home and a complicated roof structure make it challenging to stay within the height restriction. She commented that the ridge line, six percent of the roof, is the portion for which they're requesting a variance.

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Mr. Carman inquired why, when starting from scratch, the house was designed with a non-conforming roof line.

Ms. Meagher commented that the house is downhill from the road and will not impede any views and feels it's a minor request.

Mr. Harper inquired if she would be submitting more variance requests beyond the two current requests, and Ms. Meagher indicated that the Planning Board noted the need for variances for the tram placement and the existing dwelling on the property.

Mr. Carman commented that the Zoning Board cannot rule on those at this meeting as they weren't advertised, however they could be discussed. He indicated that the ideal approach would be to address all other variances at one time rather than piecemeal the requests.

There was a brief discussion about the existing structure on the property and that two residences are not allowed on the same property.

Ms. Meagher indicated she could resubmit the height variance with the tram setback variance, but could also investigate whether the architect can reduce the height and whether the tram placement can be reconfigured.

Mr. Carman indicated that per code tram landings must be forty feet from the mean high water mark, however the code also gives lakefront owners the right to access their lakefront with steps and/or trams, so the Zoning Board works with property owners to make that feasible.

There was discussion that the current structure has a kitchen, two bathrooms, a downstairs bedroom and a sleeping loft, and therefore qualifies as a house.

Ms. Meagher indicated that the owner intends to decommission the house and convert it to a gathering space with a bathroom and wet bar, and there will be a pump station to bring waste up to the main septic through insulated lines that will be used seasonally.

It was decided to move the next ZBA meeting to June 12, with a May 22 submission deadline, for Ms. Meagher to have the opportunity to put together a new application.

OTHER BUSINESS:

Mr. Harper made a motion to accept the April meeting minutes. All Board members voted in favor, none opposed, and the motion passed.

Mr. Harper made a motion to adjourn, Mr. DeMallie seconded. All Board members voted in favor, none opposed, and the meeting was adjourned at 8:25 p.m.