

**TOWN OF MIDDLESEX**  
**PLANNING BOARD**

Minutes

Wednesday, March 2, 2022 - 7 pm

Board Members present: Board Members: Terry Mott, Gordon Stringer, Case Smeenk, Nate Duffy, Dawn Kane – Code Enforcement Officer

Public Present: Austin Liddiard, Donald Cheney, Esq., Anthony Venezia (Venezia & Associates), Justin Jones, John Collins (Bison Engineering)

Agenda: Applications for FNS Development LLC, Jeremy Fields and Justin Jones

Public Meeting was called to order at 7:00 pm

There was a discussion with the Town Supervisor about having a co-chair on each board so there could be continuous approvals for projects and a process to work through any absent board members. An announcement was made that Case Smeenk will be taking over as a co-chair for the Planning Board starting in May.

Site Plan Reviews – Old Business

1. App. # 120721-SPR/ FNS Development LLC represented by Venezia & Associates requests Site Plan Review for new construction of a single-family residence, Tax ID #11.35-1-3.3, (LR).

CEO Kane recited an e-mail she received from Ted Carmon stating that Jeremy Fields and Donald Chaney, Esq. acknowledged in writing the existence of the right-of-way crossing the property at 556 E Lake Road. Mr. Carmon is not opposed to the site plan application as presented unless the topography and drainage is changed, obstructing their ability to use the rights of his property. Ms. Kane also received and distributed a letter from Donald Chaney, Esq. stating that a request was made for documentation showing if the right-of-way was in a different location. There was nothing on record and no evidence of information concerning the right-of-way, so the right-of-way is going to stand where it was surveyed, which was in the gully; therefore, this project will not impact that right-of-way.

This application includes a permit for the dock and stairway. The facility line is based off the property line and does not include the 10' right-of-way. The applicant's engineer stated that the easement in place is for ingress/egress only. According to the UDML, a distance of 10' is required from the facility line (that includes placing a boat within 10' of that facility line). The decision was made to shift the dock 3-4' to the south as well as shifting and realigning the steps. A 10' offset from the south side of the easement line matches the mean high water line.

There are overhead electric and telephone lines that run north and south over the property where the proposed retaining walls will be. By code, there is an 18' clearance requirement. This will be field verified prior to any construction. The retaining wall requires digging down not raising the wall up. When RG&E comes to make the connection, they will want to see this for the underground electric.

Board Member Mott expressed his concerns with the easement on the property stating that the right-of-way should be filed with the deed of the property. He also expressed that whenever a property is purchased there are title searches with metes and bounds and descriptions of the property to aid in any conflicts that arise.

CEO Kane stated that the proof of the right-of-way was in the deed when the Carman property was purchased and is on file with the County. This includes a map of the right-of-way. There was a claim that the right-of-way was in a different location than what was shown on the map filed with the deed. That deed and map were signed at the time of purchase. Through outside counsel, it was proved that there is no information that the right-of-way is somewhere else besides on the map filed at the time of the purchase.

Board Member Smeenck offered a motion to approve the Site Plan Review as presented pending the boat dock location change. A second to the motion on the floor was provided by Board Member Duffy. The following roll call vote was taken: Terry Mott: nay, Gordon Stringer: aye; Case Smeenck: aye; Nate Duffy: aye. The motion carried with three (3) ayes and one (1) nay.

2. App. #091521-SPR/ Justin Jones represented by Bison Engineering requests Site Plan Review for a proposed renovation to stabilize an existing cottage structure at 1288-1292 South Lake Road, Tax ID #21.71-1-6, (LR)

CEO Kane introduced the application and John Collins as representative. A response letter from Stantec was sent to the applicant and his representative.

A new set of drawings were provided, based on the surveying provided by Venezia, in response to the original comment letter provided by the Planning Board. The new drawings addressed all the Town Engineer comments at that time.

Tom Palumbo suggested getting a new survey map showing what is going on at the shoreline to relate where the slope is and what happens at the top of the slope. Erosion control matting on 4 and 1 greater slopes should also be added. The new survey map should include a topo along the road and along the cottage and show the contours, path and the existing wall behind the existing cottage relative to the new foundation basement wall as well as grading, etc. behind the south cottage. The subdivision portions of the drawing should be removed. There is an existing stone wall behind the south cottage wall. Make sure there is a low point between that stone wall and the house. The new survey should show the finished floor elevation of the house in order to have enough drop from the finished floor of the house to the ground outside which is then going to become the top of the wall that extends out north and south. Once construction begins, if the 8' wall requires part of it to be 10', when it is designed for 8', it will need to be taken down and rebuilt. If that wall goes up 2' it has to be wider. The project is a Type II and an SEAF is not required.

From a Town perspective there is a lot of talk about South Lake Road and the stability of its banks. The wall is holding the road back in parts and the applicant has been at this for a while, with the passage of time if the wall goes, the Town has a problem. A stretch of South Lake Road was recently repaired because of a bank failure. There should be a plan to stabilize the wall, and in turn stabilization of the Town road.

Every day will be a critical inspection at this site. In order to expedite the project, it needs hands on engineering. Any site changes need to be reviewed on an expedited basis and if they are beyond a certain level they need to go back to Stantec and the Planning Board. It is suggested to have a Planning Board condition that states once excavation begins the conditions should be verified. Applicant's engineer needs to submit a verified and stamped letter to the Code office and Town Engineer with the conditions, if not then a revised drawing will need to be submitted for review and approval before any work proceeds.

The applicant will be contacting another surveyor to gather all the required information and then their engineer will incorporate all the information into the plans.

Putting the foundation underneath the house will cause a need for dirt removal. This should be removed on a continual basis as opposed to being removed once it has accumulated. The septic requirements are based on the number of bedrooms and bedrooms. There are no changes to that so it will not add to the septic load in any way. There is an area identified on the plan with silt fence for erosion control. The primary purpose was called out by CEO Kane over a year ago. Right now, there is just a dirt slope under that back portion of the cottage that has been eroding. There are rivulets of drainage through the dirt and that has been protected by the previous owners with creosote railroad ties laid against it. The new plan is to place concrete sheer walls and provide an indoor staircase. The other purpose is to stabilize that slope. A solid concrete retaining wall for the back and the concrete walls on the side provide sheer walls to keep the whole cottage from being pushed or rolling into the lake.

Suggestions were made to extend the silt fence up to the access point and a double row or a row with a silt sock and wrap it along the shoreline rather than coming down between the path and the stairway. Also, add a notation on the map for construction equipment and a general note on the plans to maintain one lane of traffic at all times. If Code Enforcement starts getting complaints from neighbors that this is causing problems getting to and from their cottage, it is in agreement to put flaggers out for road traffic control. For the original parking area where the drive is across the street, for construction purposes this area should be enlarged and apply gravel for machinery and staging use. This will need to be incorporated into the application and come up with a dimension, gravel and stabilize.

A final determination is required for the wall alongside the pathway on whether the gravel option will be used. If the gravel option is chosen it will create a bigger cut slope going up to put it in. It is suggested to be conservative in the number for disturbance for the steep slope.

Correspondence was received from the DEC and DOS. Since the cottage is over the property line into the lake and has been there it is good to have communication with them. The Army Corp is backlogged and has not responded; however, it is likely that the Army Corps will sign off and not assert jurisdiction. It is the applicant's risk if they wish to proceed before Army Corps responds.

In regard to the Geowall, it will taper off as it gets close to the road and will run fairly close to the road (about 4' off the pavement edge) but not close enough to disturb routine plowing efforts. Applicant acknowledges that the Town has the authority to do any work there if necessary.

CEO Kane inquired if the Board would accept a condition that the applicant will provide to Town Engineer and the Code Office the survey and elevations required to complete this review. A notation regarding the traffic and DOT comments will be part of the site plan approval in the general notes and also added on the plans.

A motion to conditionally approve the site plan approval as submitted was offered by Board Member Mott and seconded by Board Member Stringer. The following roll call vote was taken: Terry Mott: aye, Gordon Stringer: aye; Case Smeenk: aye; Nate Duffy: aye. The motion so carried with all Board Members present voting in favor. None opposed. The following conditions must be resolved prior to permitting:

1. Detailed spot elevations with 2' contours –clarify elevations and locations of the structures, the 2' contours and adding the stairs and grades along the stairs.
2. A preconstruction meeting with contractor, homeowner and engineer prior to commencement of the work.
3. Critical inspections – decide design professional and provide report on foundation excavation (rebar, etc) to CEO and Town Engineer. Start with soil and erosion. Everything being installed to start. Town Engineer will provide critical points, etc.
4. Make a decision on the size of the staging area across the street and provide a detail on the gravel and the construction entrance.

Draft Planning Board Minutes were reviewed from January 5<sup>th</sup>. A motion to approve the draft minutes was made by Board Member Mott and a second was provided by Board Member Duffy. The motion so carried with all Board Members present voting in favor. None opposed.

Draft Planning Board Minutes were reviewed from February 2<sup>nd</sup>. A motion to approve the draft minutes was made by Board Member Stringer and a second was provided by Board Member Duffy. The motion so carried with all Board Members present voting in favor. None opposed.

The meeting adjourned at 8:34 pm

Draft Minutes submitted by Laura Ann Chamberlain  
Minutes approved on May 4, 2022