

TOWN OF MIDDLESEX
PLANNING BOARD

Minutes

Wednesday, December 1, 2021 - 7 pm

Board Members present: Marty DeVinney, Chair, Board Members: Terry Mott, Gordon Stringer, David Adam, Lynn Lersch; Dawn Kane, Code Enforcement Officer; Robert Brenner, Esq, Town Attorney

Public Present: Denise Adam, Nathaniel Duffy, Richard Testa, Case Smeenk, Ted Carman, Bill Grove of Grove Engineering, Austin Liddiard, Brent Rosiek of Rosiek Engineering, Jon Jones of Marks Engineering, Jeremy Fields, and Neil Ross

Agenda: Applications for Crowley, Rath-DiMaggio, Dreste, Ross, Testa, Lindner, Green, FNS Development LLC

Public Meeting was called to order at 7:01pm

Site Plan Reviews –

1. App. # 082621-SPR/ Christopher Crowley represented by Bill Grove of Grove Engineering requests Site Plan Review for upland and shoreline site improvements at 1183 South Lake Road and upland retaining wall, Tax ID #21.56-1.6, (LR)

CEO Kane summarized the application to the Board Members, acknowledging that Bill Grove had brought the application for Preliminary Review in September at which time the Board had requested revisions prior to final determination, stating as Engineer on Record, he was back to present the current status on the application.

Bill Grove stated he had provided an updated survey on the parcel as requested. The shoreline culvert could be redesigned to increase the diameter to 15” or place (2) side by side culverts where (1) 12” was currently shown. This redesign would not have any big impact on the shoreline drainage design, however, was pending on the decision of the Highway Superintendent to resize the Town’s culvert that conveyed upland water under the road to the shoreline piece of the parcel. After some discussion it was resolved that Mr. Grove would contact the Highway Superintendent to provide advisement on the expansion of the road culvert as discussed.

Board Member Adam inquired about the proposed gravel parking area which was designed within the Town’s ROW.

Attorney Brenner offered advisement on all projects proposed to be constructed within this ROW if there were possibility of any impact on future maintenance or Phase II of the Town’s Highway Improvement Project, a letter provided by the owner would suffice, that stated owner’s awareness that such proposed project may have to be altered or removed, if necessary, in the future.

Engineer Grove stated the owner had emailed the Code Office referencing this. Code Officer Kane requested Bill Grove to verify and resend this referenced email. She stated it should also be noted that the paved driveway’s apron at roadside had actually been constructed out into the road and may also be damaged during ongoing snow removal maintenance or when the highway improvement project was completed in the future.

Board Member Mott offered that it may be necessary to draft some legal document or separate highway permit that stated the approval of such projects by the Planning Board was conditional on any damage to such projects was ultimately the owners’ responsibility and cost, not the Town’s liability.

Attorney Brenner stated this discussion was in progress with the Town Board and ultimately would be their decision.

Bill Grove stated all revisions had been noted on Site Map.

Without further discussion from the Planning Board, Chairman DeVinney opened the floor to public comment:

Resident Richard Testa stated as realtor for the previous owner, and wanted to confirm he was in favor of the plan as presented.

Without further comments, Chairman DeVinney closed the Public Comment portion of the Public Hearing and entertained a motion on the application. Board Member David Adam motioned to approve the application as submitted with the following conditions resolved through the Code Enforcement Office prior to permitting:

- Letter from the owner stating his acknowledgment of the possibility of the need for removal of his proposed project that exists within Town's ROW, if completion of Phase II of the Highway Improvement Project deems it necessary to do so.
- Bill Grove will send a pdf of the Crowley Site Plan to the Town of Middlesex Highway Super requesting review and advisement on the possible resizing of the existing culvert under the road during the proposed highway improvement project and referenced in the Lu Engineer road study.

Chair DeVinney inquired if there was a second to the motion on the floor. Terry Mott provided a second. The motion so carried with all Board Members present voting in favor. None opposed.

2. App. #052621-SPR. Todd Rath of 1101 S. Lake Rd., represented by Grove Engineering requests Site Plan Review for new construction of a Single-Family residence, 14 x 30 ft. shed, driveway/parking area and conventional wastewater treatment system, Tax ID # 21.48-1-3.1, (LR)

Bill Grove presented the application stating the Raths had completed their shoreline improvements and were now ready to start their upland portion of the parcel with a proposed construction of a single-family residence, a 14 x 30 ft. shed, driveway/parking area and a conventional wastewater treatment system. The proposed design met all setback requirements for the lot. Electric service is existing. Drainage would be controlled by an existing swale on the north side and a bank on the south side that allows water to flow to the existing ditch. There is an existing swale that allows water to flow to the north side which daylight into a culvert. The septic leach field is 8 ft. on center due to the slope being 10 ft. wider the length of the hill's slope. The design has been submitted to the Canandaigua Watershed.

The Board inquired on the per centage of slope on the parcel. Bill Grove stated it was approximately at 15% but close.

Attorney Brenner requested that the parcel's slope be verified and if 15% or greater, a Steep Slope Permit Application (SSPA) would need to be submitted as more than 500 ft. of ground area disturbance was evident by the proposed plan submitted.

Board Member Adam was concerned with water flow at roadside and possible erosion of the road if water traveled across the road during a storm event. All flow should be directed to the south corner or to the north swale to reduce sheet flow onto the road.

Water service to the house from the lake was still pending. Board Member Mott stated if there was to be impact to the road surface, it would be best to schedule this work to be completed prior to highway road surfacing.

Code Officer Kane requested the driveway dimension to the upland parking pad be verified on the site map.

Without further discussion, Chairman DeVinney opened the floor to comments from the public in attendance.

Resident Richard Testa made comment that he was in favor of the project as realtor representing the previous owner.

Without further comment Chairman DeVinney closed the public comment portion of the meeting and entertained a motion to move on the application. Board member Mott offered a motion to approve with the following conditions to be resolved prior to further review by the Planning Board:

- Verification of the slope of the parcel. If 15% or greater and 500 ft. of ground disturbance or greater, submit a SSPA Application and include indication of slope on site map.
- Pending NYSDOH wastewater treatment system approval.
- Drainage to be mitigated to north swale or directed to southern corner by edge of road so water does not flow over the road.
- Underground water service to the lake should be scheduled prior to the start of Phase II of the Highway Improvement project.

The motion was seconded by Chairman DeVinney. The motion so carried with all Board Members present voting in favor. None opposed.

3. App. #120621-SPR/Robert & Lisa Dreeste of 00 Shay Rd., represented by Grove Engineering requests Site Plan Review for new construction of an 80' x 40' Pole Barn with bathroom, a 12' x 80' lean-to, wastewater treatment system and driveway w/concrete apron, Tax ID # 23.03-1.17, (A/R)

CEO Kane summarized the application, stating the parcel on Shay Rd. was approximately 13.09 acres on which a proposed 80 x 40 ft. two-story pole barn with driveway, running water and electric service. A wastewater treatment system was pending approval designed by Bill Grove who was present to answer any Board questions.

Bill Grove stated the wastewater treatment system was designed currently awaiting an approval through the NYSDOH. He stated the pole barn design included running water, a bathroom and electric service as the intent for the barn was for storage and horses and was not intended for habitable space. The existing driveway was 15 ft. + wide with a concrete apron for ease of trailering horses. A 12' x 80' lean for additional outside storage. The septic design would accommodate the minimum 1000-gallon tank based on the Watershed's two-bedroom criteria. There is a proposed well on the south side of the parking area. The site map met all current zoning lot requirements and the drainage on the parcel flows to the west side of the property.

Attorney Brenner stated by definition the driveway's concrete apron was considered a structure and a variance would be necessary for the encroachment on the minimum setback. He advised, if paved, a variance was not necessary.

Engineer Grove stated the barn could be slid back to avoid that as well and would discuss this with the owner.

After board review, Chairman DeVinney opened the floor for public comment. There were none. Chairman DeVinney then closed the public portion of the meeting.

Chairman DeVinney inquired whether there was any more discussion from the Board. There was none. He entertained a motion to move on the application. Stringer made a motion to approve the application with the following conditions to be resubmitted for further Planning Board review:

- Determination of approval will be contingent on notation that the proposed Pole Barn will not be used for human habitable use without additional site plan review.
 - Pending NYSDOH wastewater treatment system approval.
 - Concrete apron on proposed barn infringes on setbacks. Proposed site plan as submitted, requires a variance because of the apron product within the setback. It was recommended that the footprint of the structure w/ concrete apron be moved back out of the setback to be in compliance or use asphalt pavement instead of concrete for the apron in front of the structure.
4. App. #120121-SPR/Neil Ross of 6129 N. Vine Valley Rd. requests Site Plan Review for a proposed 24' x 40' timber frame barn, Tax ID #12.03-1-4.121 (LDR)

CEO Kane summarized the application, stating to Board Members that the proposed barn met all district's setback requirements. Mr. Ross would remove scrub vegetation and construct the barn himself next to the existing barn using the same access. The parcel was flat and the barn would be of timber construction.

Mr. Ross would be using 6 x 6" hemlock timber to construct the barn which would be used for storage. Chairman DeVinney invited public comment. There was none. He then closed the public comment period and entertained a motion to move on the application as presented. Board Member Stringer made the motion and Mott provided a second. The motion so carried with all Board Members present voting in favor.

5. App. # 120521-SPR/Richard Testa owning property at 958 S. Lake Rd., and represented by Venezia & Associates requests Site Plan Review for an addition to and raising an existing seasonal cottage, geogrid driveway access, Tax ID #21.25-1-8, (LR)

CEO Kane summarized the application stating this review was conceptual as the project was currently needing multiple variances by the Zoning Board of Appeals. Further review was pending the granting of these variances. The owner Mr. Testa and Engineer were in attendance to briefly present their proposed project. The application was also pending a review by Town Engineer Stantec prior to further review.

Rocco Venezia of Venezia & Associates presented the application stating the pre-existing and non-conforming seasonal cottage which had been built prior to zoning and had withstood numerous floods due to its low elevation. The proposed one-story cottage would be raised to an 8 ft. full basement foundation and an added onto to expand the living space into a year-round residence with a 2-car detached garage with loft space and access by a geo-grid driveway. Mr. Testa was asking for side setbacks on the new addition and an increase in lot coverage. The current septic system was in working condition.

Board Member Adams stated the Board would need a letter from the Canandaigua Watershed Inspector verifying the current septic would be sufficient to handle the expansion. It was stated by Testa that currently there were three bedrooms and the expansion over the garage. Board Member Adam also inquired about drainage on the site due to its elevation and proximity to the lake. He then inquired about the setback on the south side of the new addition, stating it appeared to be missing a dimension. Drainage to protect the residence also was not on the site map. Rocco stated he would be providing those details for the next review. The following recommendations by the Planning Board were made prior to further Preliminary Review:

- Resubmit Site Plan with the missing setback dimension on the south side property line of the new addition.
- Provide a letter from the Canandaigua Watershed Inspector stating that the existing wastewater treatment system is sufficient to support the proposed expansion of the structure's footprint.
- Onsite drainage plan with appropriate silt fence protection for the lake around the area of disturbance.
- Stockpile location for onsite spoils protected by silt fence or provide notation that spoils will be hauled offsite.
- Final Planning Board Determination is pending granting of requested variances by the Zoning Board of Appeals.

6. App. #120421-SPR/Patrick Lindner of 1315 S. Lake Rd., represented by Rosiek Engineering Requests Site Plan Review for the installation of a Presby wastewater treatment system to replace an existing septic, Tax ID # 21.79-1-3, (LR)

CEO Kane introduced Engineer Brent Rosiek who stated the application had received wastewater treatment system approval from the Canandaigua Watershed for a replacement system. The project was contracted out by Meyers excavating and installed by Barry Zink in the spring.

After review, public comment was invited. There was none, so Chairman DeVinney entertained a motion to approve the application with conditions. Board Member Adam made the motion which was seconded by Board Member Mott. The motion so carried with all Board Members voting in favor with the following contingencies to be submitted to Code Office prior to permitting:

- Provide silt fence on south property line to protect contiguous parcel
- Surveyor of Record signature and date on site map granting permission for usage.
- Provide on the site map a bubble denoting the site's total area of disturbance as required by SSPA.
- Provide notation on site map that site debris tracking on South Lake Road will be cleaned up by the end of each day.
- Provide a detail on the proposed retaining wall on site map to include the proposed height and length dimensions.

7. App. #120321-SPR/Linda Green owning property at 91 Lindsley Rd., represented by Marks Engineering requests Site Plan Review for a Minor 2-Lot Subdivision, Single-family residence, shared driveway, and new well and onsite wastewater treatment system, Tax ID #3.01-1-1.2, (A/R)

CEO Kane introduced Jon Jones of Marks Engineering who summarized the application for the Board, stating this application was a Minor Subdivision request of a 210-acre parcel into two lots. Lot # 1 would have 206 acres of land and spanned both sides of Lindsley Road. Lot #2 was proposed as a 4-acre flag lot to be developed with a single-family residence, with septic, well and expand a pre-existing farm road to access the development as a driveway. The flag lot configuration had 50 feet of road frontage on Lindsley Road. The septic was pending some minor changes prior to approval. He stated the application met all setback requirements.

Board Member Adam inquired why the road frontage on the Lot #1 flag lot wasn't used for the access driveway to the house. Board Member Mott agreed that there seemed to be an issue with the access being split between the two proposed lots, creating a deed ROW issue for future owners as the deed ended at the property line.

Ms. Kane inquired if the ROW deed stated "for the purpose of Agricultural use only or any use."

Attorney Brenner advised that the owner would need to apply for a variance for the proposed driveway on newly created Lot #1 as it did not access a public road, and under Section #703 of the Zoning Code the driveway as intended would be considered a private road serving two lots. It would make reasonable sense to relocate the driveway to access Lindsley Rd. to be in compliance with the Zoning Code.

After careful review of the rest of the application, and further discussion on the well, septic and proposed drainage on the property, the following requests were recommended to resubmit for further review by the Planning Board:

- Check the deed documentation for driveway ROW to see if it states for "farm purposes only" or for "any purpose."
- Resubmit with private driveway accessing the public road from the proposed flag lot's road frontage to include dimensions and required emergency vehicle pull-offs, turnarounds for compliance with code or apply for relief from the code with a variance request for the driveway extension as proposed.

- Provide on map an area for spoils and provide appropriate silt fence around proposed area.
 - Determination pending wastewater system NYSDOH approval and possible granting of variances from the Zoning Board of Appeals.
 - Provide on site map a notation of a “new well” where well is located.
8. App. #120721-SPR/Jeremy Fields owning vacant land at 556 East Lake Road, Lot #3 requests Site Plan Review for the new construction of a single-family residence and attached garage, retaining walls, driveway, wastewater treatment system and well, Tax ID # 11.35-1-3.3, (LR)

CEO Kane summarized the application a conceptual review of the proposed development was in order and stated the property had previously received a Planning Board review in July 2021 with a previous owner for the proposed site development on the vacant lot. The new owner FNS Development LLC has requested Site Plan Review to obtain approval to begin onsite construction as previously proposed.

Mr. Fields presented the proposed project stating all revisions he thought had been made by Venezia and Associates. He noted that he had added a stair system to access the shoreline and a docking system.

The Board noted that any proposed revisions had not been noted on the site map by the Engineer as to when they had been made and so these would need to be verified and septic approval by the NYSDOH would need letter verification that it had been approved.

Owner Jeremy Fields stated a change in the approval had been forwarded to the Code Office. Ms. Kane stated she would need that review by Cheryl Robbins prior to final determination.

Ms. Kane stated the proposed site improvements had been under review by Town Engineer Stantec Engineer and a letter dated June 22nd had not been responded to by the representing agent Rocco Venezia due to withdrawal of the application by the previous owner.

After a brief discussion, Chairman DeVinney opened the floor to public comment.

Resident Carman stated he had issue with a deeded ROW across the north boundary line that runs east to west diagonally across the property that had not been marked properly on the map and extended from East Lake Road to the shoreline.

Mr. Testa stated he had been the realtor of the previous property owner on this parcel when it was first being subdivided off into three lots and known as The Highland Group Estates. He offered his advisement on the ROW.

Without further discussion, Chairman DeVinney closed the Public Comment portion of the meeting.

After careful review the Board advised that a civil agreement of an appropriate legal resolve between property owners was an appropriate avenue for them to follow as it was outside the Planning Board’s scope of review to resolve. The following requests were made by the Board to be resubmitted for further Planning Board review:

- Provide an engineer letter of response to Stantec's review of (6/22) on property from previous owner with all requested map revisions.
- Provide on the site map – signature and date of Engineer's submitted stamped plans with notation of all revisions dated as such since the last PB review in July.
- Submission of a Planning Board Site Plan Application form signed by applicant with \$100 fee prior to next review.
- Submission of a Steep Slope Permit Application (SSPA) providing the total area of disturbance.
- Submission of a separate UDML application for shoreline improvements and stair system to access the shoreline.
- Scheduling of a pre-construction meeting with the Code Officer prior to working onsite.

- Provide an “As Built” site plan with engineer’s certification that all construction meets the details depicted on the Site Plan at project completion.

Without further discussion, Chairman DeVinney entertained a motion to approve the draft minutes from November as submitted. Board Member Stringer made the motion which was seconded by Adam. The motion so carried with all Board Members present voting in favor. None opposed.

Chairman DeVinney invited further discussion. There was none. He entertained a motion to adjourn. Board Member Mott made the motion which was seconded by Stringer. The motion so carried. All in favor. None opposed.

Meeting adjourned at 10 pm

Draft Minutes submitted by L. Lersch

Minutes approved on 1/5/2022