

Middleton Planning Board  
Middleton, MA  
MINUTES OF THE MEETING  
October 13, 2016

The Middleton Planning Board met at a regularly scheduled meeting  
on October 13, 2016 at the Fuller Meadow School,  
143 South Main Street, Middleton, Massachusetts at 7:00 pm

The following board members were in attendance:

Chairperson Beverly Popielski, Clerk Rick Kassiotis, members John Knott, Tony Tierno, David McGlone and  
alternate member Nick Bonugli

Others present:

Katrina O'Leary, Town Planner

Chairperson Beverly Popielski called the meeting to order at 7:00 PM

**Minutes July 13, 2016**

**MOTION: Made by Rick Kassiotis to approve the minutes with one minor correction of a typographical error. Motion seconded by Nick Bonugli. Vote 5-0 in favor, motion carried.**

Chairperson Beverly Popielski appointed Nick Bonugli as a full voting member for this meeting.

**Public Hearing**

Clerk Rick Kassiotis read the announcement into the record for the public hearing for the Modification to a Definitive Subdivision Plan: "Modified Definitive Plan, Grandview Road Extension," owner: Steven S. Epstein; applicant Greener Living Luxury Homes LLC. He also read into the public record the correspondence received from multiple parties regarding this item. The lot in question was part of a subdivision plan approved in 1983 and this is the last lot; 90% of the subdivision is in Danvers, this last lot is in Middleton. The only access to this lot is from Danvers.

Middleton Conservation approved the plan dated 9/14/16

Middleton Board of Health has approved the septic

Middleton DPW has reviewed the plan – noted road should be a minimum of 20' wide and requested that the plan note the paving

Middleton Police – only question was how far out of town the entrance to the street is

Middleton Fire Department – commented that the turnaround should be consistent with other similar streets and asked if a pumper truck or ladder truck could make the turn. Will need to add Grandview Rd to the database to avoid any confusion and/or delays

William & Sparagues responses:

Added notations to include street width and paving details

Ladder truck would have to back up to where the existing cul de sac is located – could not turn around in one motion

**MOTION: Made by Rick Kassiotis to continue the Public Hearing until 8:00 pm. Motion seconded by Tony Tierno. Vote 5-0 in favor, motion carried.**

David McGlone joined the meeting a little late. David McGlone will resume his voting rights for the rest of the meeting but Nick Bonugli will remain the voting member for the Public Hearing discussion.

### **Other Buiness**

#### A. Norma Way/Kassiotis Lane – Request for Tri-Partite Extension

Work has been progressing quite nicely since the last meeting. Mr. Falite indicates that the final pavement will be completed by October 25, 2016. The Town keeps 10% of the Tri-Partite Agreement amount for one year. Once the paving is completed, Mr. Falite can request a reduction in the bond amount.

Chairperson Popielski suggested that he may want to place some large stones/boulders to block off the extension of the street that connects to Ridgeway to block off access to avoid large trucks working on that subdivision from driving over the new pavement.

Cheryl McCormack – 9 Kassiotis Lane

Addressed the Board to let them know the residents are happy with the way the development is wrapping up.

**MOTION: Made by Rick Kassiotis to accept the request to extend the Tri-Partite Agreement until October 30, 2017. Motion seconded by John Knott. Vote 5-0 in favor, motion carried.**

**MOTION: Made by Rick Kassiotis to allow Chairperson Popielski to sign the Tri-Partite extension. Motion seconded by Tony Tierno. Vote 5-0 in favor, motion carried.**

#### B. Zaloga Lane (Ryebrook Estates Phase IV), Richard Jones, Ryebrook LLC – Request for Bond Reduction, Extension of Construction Completion Date, & replacement of the Tri-Partite Agreement with a Cash Bond

Requesting a construction completion date until December 30, 2017 and requesting to replace the existing Tri-Partite Agreement with a cash bond in the amount of \$64,806. Bob LaBossiere has reviewed

the condition of the subdivision and acknowledged that it is 98% complete and the amount of the suggested cash bond would be sufficient to complete the project.

**MOTION: Made by Rick Kassiotis to grant to extension of the construction completion date and the Trip-Partite Agreement with a Cash Bond in the agreement of \$64,806. Motion seconded by John Knott. Vote 5-0 in favor, motion carried.**

C. Lewis Drive Definitive Subdivision, Richard Sokolaw, Primecap LLC: Establish bond amount, accept surety, release Restrictive Covenant

Richard Sokolaw is the new owner of the subdivision. The two houses on the property have been converted to single family homes. Bob LaBossiere has reviewed the subdivision and indicated that the bond amount of \$83, 877 will be sufficient to complete the project.

**MOTION: Made by John Knott to accept the surety in the amount of \$83,877. Motion seconded by Rick Kassiotis. Vote 5-0 in favor, motion carried.**

**MOTION: Made by John Knott to accept the final construction date of October 13, 2018. Motion seconded by Tony Tierno. Vote 5-0 in favor, motion carried.**

**MOTION: Made by Tony Tierno to allow Chairperson Popielski to sign the release of restrictive covenants. Motion seconded by John Knott. Vote 5-0 in favor, motion carried.**

D. Ridgewood Estates, Louie Roberts and Rita M. Roberto, Trustees of East Street Realty Trust – Revision to Phasing Plans, 81-X Certification.

Represented by Jill Mann. This is a 54-lot subdivision of the previous JCC property. The subdivision was initially developed in 7 phases. Phase 1 has been completed. This is addressing a redesign of the future phases resulting in a change in construction sequencing. The overall subdivision has not been modified or changed – the street layout is the same, infrastructure remains the same.

The Planning Board requested that Ridgewood Estates maintain a barricade between them and Norma Way/Kassiotis Lane until their road in accepted by the Town.

**MOTION: Made by John Knott that pursuant to M.G.L. Chapter 42, Section 81X the Planning Board for the Town of Middleton hereby certifies that its approval of the subdivision of land referred to as the “Ridgewood Estates Definitive Subdivision” as recorded with the Essex South District Registry of Deeds in Book 32984, Page 481 has not been modified, amended or rescinded. The Board further certifies that the plan contains no substantive changes and reflects only a resequencing of the construction of improvements, as previously approved, and an adjustment to the number of lots contained within Phases 2 through 7. Motion seconded by Rick Kassiotis. Vote 5-0 in favor, motion carried.**

Public Hearing cont'd

Represented by Jill Mann. The original subdivision was approved in 1982 by the Towns of Danvers and Middleton to include 28 lots in Danvers and 1 lot in Middleton which is the last lot to be developed. All requirements have been met; septic has been approved, water is an 8" main and a 6" hydrant which will be located in Middleton. The original plan indicated a 34' wide pavement at the end of the road, near this lot, this has been redesigned to 20' wide. This extension will remain as a Private Way beginning at the Town Line.

Danvers Conservation will be meeting on 10/27/16 to review. Danvers Planning Board meeting is on 10/25/16.

Jan Marrone of 24 Grandview Rd, Danvers  
Is pleased the last lot will be completed. Is asking for a some more communication with the existing residents and that they be considerate regarding taking down trees.

**MOTION: Made by Tony Tierno to close the Public Hearing. Motion seconded by John Knote. Vote 5-0 in favor, motion carried.**

**MOTION: Made by John Knott to approve the modified definitive subdivision plan for Grandview Road Extension assuming concerns of all department heads including the Planning Boards of both Middleton and Danvers have been addressed. Motion seconded by Nick Bonugli. Vote 5-0 in favor, motion carried.**

E. Open Meeting Law Complaints under 940 CMR, Section 29.05

Complaint filed by Teresa Buono on 10/3/16 that the Planning Board violated the Open Meeting Law on their May 2016 meeting. Town Counsel has responded that there no remedial action was warranted as there was no violation of the Open Meeting Law and even if there were a violation of the Open Meeting Law the complaint was filed in an untimely manner.

**MOTION: Made by Rick Kassiotis to authorize Chairperson Popielski to request the Town Planner to respond to the Attorney General's office per Legal Counsel's recommendation. Motion seconded by Tony Tierno. Vote 5-0 in favor, motion carried.**

A second complaint was filed by Ron Trottier on 10/11/16 regarding the August 2016 meeting of the Planning Board. Town Counsel has responded that there no remedial action was warranted as there was no violation of the Open Meeting Law and even if there were a violation of the Open Meeting Law the complaint was filed in an untimely manner. However, the Planning Board agrees to make a better effort in the future that the street name to the extent identifiable appears for each item on the agenda. An ANR endorsement is a matter of law and under the subdivision control law no public hearing or public comments apply.

**MOTION: Made by Rick Kassiotis to authorize Chairperson Popielski to request the Town Planner to respond to the Attorney General's office per Legal Counsel's recommendation. Motion seconded by Tony Tierno. Vote 5-0 in favor, motion carried.**

Teresa Buono of 25 Dixey Drive --- indicated to the Board that she plans to resubmit her complaint to the Attorney General's office.

Ron Trottier of 26 Dixey Drive – expressed his feelings that Beverly Popielski should have abstained from all voting on any actions regarding Dixey Drive.

### **ZBA Recommendations**

A. 18 Village Road – Special Permit under Section 6.2 for Earth Removal, New Meadows Development LLC – Application #1019

Represented by Jill Mann. The applicant is seeking a special permit to remove materials from the site. There is a large amount of gravel to remove; some will be taken around Town for fill and some will be shipped out of Town. There will be close to 10,000 yard of material being removed and will take approximately 2 months. The question was asked if there is anyone who monitors the trucks going out of Town – is there any Bill of Lading? Chairperson Popielski asked Ms. Mann to discuss with Bob LaBossiere.

**MOTION: Made by John Knott to provide a favorable recommendation to the ZBA. Motion seconded by David McGlone. Vote 5-0 in favor, motion carried.**

### **Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of the meeting**

The Planning Board received a letter from the Board of Selectmen regarding the Special Town Meeting for November 15, 2016 regarding warrant article #6 for a proposed zoning amendment. The Planning Board must hold a Public Hearing within 65 days of receiving notice from the Board of Selectmen. The Board of Selectmen requested that the Planning Board hold a Public Hearing to discuss the proposed changes prior to the November 15<sup>th</sup> Special Town Meeting. Clerk Kassiotis read the received correspondence into the record.

Opened to the floor for any public comments:

Jill Mann – 13 James Avenue

Expressed concern regarding trying to get through the whole process in too quickly a fashion without any real investigation to see what the best solution would be and to have the opportunity to speak a zoning expert. Given the amount of notice the Planning Board would need to provide the public, there would only be time for one Public Hearing prior to the November 15<sup>th</sup> Special Town Meeting. Therefore, any concerns raised at that meeting would need to be able to be addressed at that same Public Hearing. She is questioning the timing --- is the November 15<sup>th</sup> meeting a little pre-mature?

Chairperson Popielski stated that when North Main Street had its re-zoning, there should have been more thought given as to the residential property owners in that area.

Ron Trottier – 16 Dixey Drive

In 1983 the buffer zone for an industrial zone was 100' – that would protect a home owner. The supporters of this amendment change are trying to protect the rest of the residents in Town.

Debra Forde – 17 Dixey Drive

Concerned with what is happening to the 'Doherty' property on Dixey. All the trees have been removed from the property so you can see straight to the DPW, the house is in disrepair – not good for the rest of the houses on the street.

Teresa Buono – 25 Dixey Drive

Never knew about that the zone lines ran through a few lots on their street. Was never made aware that there could potentially be any impact to Dixey Drive residents with the new industrial park being built on N Main Street – Dixey never came up in the discussions. The residents never had the chance to hear about it or to have their voices heard.

Doug Whiffen – 28 Dixey Drive

The residents didn't have due process or any chance to speak – they were not represented. This is their way and chance to bring their issue to the Town legally and have their due process.

**MOTION: Made by David McGlone to authorize Katrina O'Leary, Town Planner to advertise a Public Hearing to be held on November 9, 2016 at 7:00 pm to discuss the proposed zoning amendment change. Motion seconded by Rick Kassiotis. Vote 1-4 against, motion denied. (David McGlone only affirmative vote)**

#### **Town Planner Update**

Announced the Walk/Bike Alliance would be holding an informational meeting at the Flint Library on Monday, October 17<sup>th</sup> at 7:00 pm.

#### **Adjournment**

**MOTION: Made by John Knott to adjourn. Motion seconded by Dave McGlone. Vote 5-0 in favor, motion carried. Meeting adjourned at 9:40 pm.**

Respectfully submitted by Amy Becker, recording secretary

Minutes approved at the 11/9/2016 Planning Board meeting.