



TOWN OF MIDDLETON
ZONING BOARD OF APPEALS

MEETING MINUTES

September 22, 2016

Fuller Meadow School

7:00 pm

Members in Attendance: James E. Fox, Anne Cote, Barbara Piselli, Richard Nazzaro, Nicolas Yebba. Alternate Howard Susser.

Absent: Ann LeBlanc-Snyder

Others Present: Katrina O’Leary, Town Planner
Leanna Harris, Recording Secretary
Jill Mann, Esq.
Robert Griffin, Griffin Engineering
Judy Fox Davis
Mr. Panzaro
Mr. McNiff

Ms. Piselli, Acting Chairperson opened the meeting at **7:06 pm** and welcomed Howard Susser to the Board. Mr. Nazzaro has been appointed by the Board of Selectmen as a permanent member. In Ms. Snyder’s absence, Ms. O’Leary had Mr. Yebba review the materials for the 328 North Main Street application.

Ms. Piselli took the Agenda items out of order.

I. CONTINUED PUBLIC HEARINGS

A. 328 North Main Street – Special Permit/Site Plan Review – Scott Audette

Application #1016

Voting Members: Ms. Piselli, Mr. Fox, Ms. Cote, Mr. Nazzaro, Yebba

Attachments: Application and Plans, Application and Plans revised 8-22-16, ANR, Planning Board recommendation, Draft Decision, Conservation Commission email, ICDRC comments,

This matter is continued from the July 2016 meeting. A site walk was conducted by the Board members on August 10, 2016.

Jill Mann, Esq. addressed the Board on behalf of the applicant and provided a brief overview. Mr. Audette purchased the property and so there will be a slight modification

to the draft Decision to reflect the new Deed. The newly assigned address is 334 North Main Street, Parcel 19C.

There will be two buildings, locations of which were shown during the site walk. The buildings will abut two residential structures and a fence will be erected to buffer the residential structures.

They addressed the Conservation Commission's concern of overflow into the wetlands during a flood by creating a pocket wetland to manage any storm water.

Other conditions imposed by the Conservation Commission were addressed. Silt fencing will also be added. The Conservation Commission's Order of Conditions should be issued on Monday, September 26, 2016 once Atty. Mann provides a copy of the recorded Deed.

The property is over 63,000 square feet and the project will consist of two industrial buildings. The larger building will have 8 units at 1,000 square feet each and the smaller building will have 2 units at 975 square feet. They are requesting allowance for outdoor storage. They are in compliance with all setbacks, all required submittals for Site Plan approval and the ICDRC's request of colonial lighting and two additional trees. They will also comply with all of the Order of Conditions imposed by the Conservation Commission.

Ms. Cote read an email from Kristin Kent, Middleton Conservation Agent into the record.

Board Discussion

Mr. Fox asked if the shed is right up to the property line or is it set back. Atty. Mann stated what he is referring to is not a structure, but the designated area to store materials, and it is a distance from the property line.

Ms. Piselli asked for confirmation that nothing has changed since the Site Walk they conducted other than the conditions set forth by the Conservation Commission and Atty. Mann confirmed.

Ms. Piselli asked Atty. Mann to discuss the lighting planned for the property. Atty. Mann stated that no light migrates off the site and added that the lights will be on timers, not sensors.

MOTION: Ms. Piselli moved the Board to make the following findings under Section 9.5.11(1):

1. Parking and Loading Areas. The Approved Plans show sufficient parking and loading areas to satisfy the minimum requirements under the Bylaw.
2. Adequacy and Safety of Vehicular and Pedestrian Movement. The traffic

circulation within the Property has been designed to ensure safe pedestrian and vehicular travel within the Property and for traffic entering and exiting the Property.

3. Adequacy and Arrangement of Parking. There is ample parking that meets the standards set forth in the Bylaw.
4. Adequacy and Appearance of Buildings, Signs and Landscaping. The landscape design, lighting, signage, screening, and architectural features of the site design and Buildings have been reviewed and approval has been recommended by the ICDRC.
5. Adequacy of Site Improvements. The design reflected on the Approved Plans provides for adequate lighting requirements, proper surface and subsurface drainage, and waste disposal.

Second by Mr. Yebba.

Votes: 5-0 (Fox, Cote, Piselli, Nazzaro, Yebba)

Motion carries.

Based on those findings,

MOTION: Ms. Piselli moved the Board to approve the Site Plan.

Second by Mr. Fox.

On the Motion: Ms. Piselli asked the members for any discussion regarding conditions. Ms. Piselli added the following conditions:

1. that the Conservation Commission's Order of Conditions be incorporated as a condition;
2. the landscaping shall be maintained in good condition and any dying or dead plants shall be replaced on an ongoing basis, including the screen buffer along Route 114;

Ms. Cote added the following condition:

3. the dumpster/trash area shall be picked up regularly, no loose trash or litter shall be allowed on the site.

Ms. O'Leary suggested being able to post a bond to receive their occupancy permit for the last unit prior to finishing landscaping, etc. Atty. Mann requested they wait to enforce until the last unit is built.

Ms. Piselli added the following additional conditions:

4. The Petitioner shall not make any substantial changes or revisions to the layout of the Property from conditions and improvements shown on the Approved Plans without first applying for and obtaining the approval for any such changes or revisions from the Board, subject to the following:
 - a. The following situations may be deemed insubstantial and insignificant changes or revisions and require no action by the Board:
 - i. Changes to infrastructure (underground utilities ---water, sewer, electric, drainage) and utility apparatus with written approval by the Department of Public Works or the department responsible for the utility such as the Middleton Electric Light Department; and
 - ii. Increases in the type or quantity of landscaping.
 - b. The following situations may be deemed insubstantial and insignificant changes or revisions and require no action by the Board but require action by the Building Inspector:
 - i. Shifting of structures, parking spaces or other site amenities less than one (1) foot in distance, provided the change does not result in any violations of any setbacks, buffers, or open space requirements; and
 - ii. Façade or elevation changes to structures that do not result in an increase to the building footprint or alteration to the vehicular or pedestrian circulation in and around the structure.

Second by Mr. Yebba.

Votes: 5-0 (Fox, Cote, Piselli, Nazzaro, Yebba)

Motion carries.

MOTION: Ms. Piselli moved that the Board determine that the adverse effects of allowing the contracting and landscaping business and two equipment storage yards under Section 3.1.2 and C.20 in the Table of Uses will not outweigh the beneficial impact to the Town or neighborhood based on findings that:

1. that community needs will be served by bringing new business and an increase in taxes to the town, both to will have a positive fiscal impact;
2. that the traffic circulation and pedestrian flow has been designed to ensure safe travel within the property and for traffic entering and exiting the property and also for safety apparatus;
3. that public services and utilities are adequate and will not be adversely impacted

4. that the property is located in the M1 district and there are similar businesses in the area; therefore the use is consonant with the neighborhood character;

5. there will be no adverse impact on the environment and there will be a positive impact on the environment based on the proposed energy efficient buildings, new stormwater management system, improved landscaping and the fact that the Conservation Commission Order of Conditions shall be incorporated into the site plan and special permit approvals.

...and based on the above findings, and under the authority granted to the board under the bylaw, Ms. Piselli motioned to grant the special permit under Section 3.1.2 and C.20 of the table of uses to allow the use of the property for a contracting and landscaping business and two equipment storage yards, subject to the aforementioned site plan conditions.

Seconded by Mr. Yebba.

Votes: 5-0 (Fox, Cote, Piselli, Nazzaro, Yebba)

Motion carries.

II. NEW PUBLIC HEARINGS

A. 12 Mill Street – Special Permit – MJP Properties, Inc.

Application #1017

Voting Members: Mr. Fox, Ms. Cote, Ms. Piselli, Mr. Nazzaro, Mr. Yebba

Attachments: Application and Plans

Ms. Cote read the application into record. Abutters have been notified.

Bob Griffin, Griffin Engineering addressed the Board on behalf of the applicant and stated they are looking to demolish the existing house and rebuild a conventional 2-story colonial style house keeping with other architecture on the street. It is a conforming lot with the exception of the lot width. It meets all the front and side yard setbacks. It has 141' with where 165' is required. They are looking to rebuild the building close to the same footprint, they will move the building forward a little bit.

Judy Fox Davis, 89 Liberty Street, addressed the Board and stated she is thankful the house is coming down but is curious why they would rebuild in the same spot. Mr. Griffin explained they did consider other locations on the lot and stated the back yard will be used for the septic and beyond the rock wall there are wetlands and so there were concerns with septic placement.

Board Discussion

Mr. Nazzaro asked if the existing building is vacant and Mr. Griffin confirmed. Mr. Fox asked if it's a new lot created in the last year or so and Mr. Griffin stated the two parcels have existed for a long time and may predate the zoning requirement for lot width.

Mr. Nazzaro asked if there is enough room for the septic to be regularly serviced and Mr. Griffin responded that it is tight but that it is possible and that both the design and location have been approved by the Health Department.

The board members agreed a Site Walk was unnecessary.

Mr. Fox would like a letter from the Ms. Fox stating, as an abutter, she is in favor of the rebuild.

MOTION: Ms. Piselli moved the Board to make the following findings:

1. The reconstructed single-family dwelling will have no effect on community needs since a single-family dwelling already exists on the subject property.
2. There will be no impact on traffic and pedestrian flow and safety, including parking and loading.
3. The Utilities and other public services are adequate in light of the Middleton Board of Health approving a 5 bedroom on-site Title 5 compliant septic system for the proposed dwelling and approved the installation of a new well as well as other utilities being available in Mill Street.
4. Reconstruction of the single-family dwelling will have no effect on the neighborhood character and social structure. The new single-family dwelling appearance will improve the neighborhood and will improve the current appearance of the lot.
5. The reconstructed single-family dwelling will be located within the existing building footprint and lawn and will have no impact on the natural landscaping;
6. The reconstructed single-family dwelling will have a minimal potential fiscal impact and no impact on Town services and employment. The dwelling may lead to a slight increase in the property valuation, thereby causing an increase in property taxes.

Ms. Piselli asks if there is a motion to accept those findings.

MOTION: Ms. Cote motions to accept the findings. Second by Mr. Yebba.

Votes: 5-0 (Fox, Cote, Piselli, Nazzaro, Yebba)

Motion carries.

Based on those findings, Ms. Piselli asked if there was a motion to issue the Special Permit pursuant to Section 9.4.2.

MOTION: Mr. Yebba moved to issue the Special Permit pursuant to Section 9.4.2. Second by Mr. Nazzaro.

Votes: 5-0 (Fox, Cote, Piselli, Nazzaro, Yebba)

Motion carries.

III. REORGANIZATION OF THE BOARD

Reorganization of the Board will be moved to the next meeting when everyone is present.

IV. MINUTES

A. July 28, 2016

The Minutes will be held until the next meeting.

V. TOWN PLANNER UPDATE

Ms. O’Leary stated the vision process for the Master Plan has begun. On October 17th will be a joint meeting with the Master Planning Committee and the Middleton Stream Team. Ms. O’Leary encouraged interested members to attend and to also take part in the Wiki map.

Ms. O’Leary offered to sit down with any member who would like to review preparing motions.

MOTION: Mr. Nazzaro moved to adjourn the meeting at **8:18 pm**. Second by Mr. Yebba.

All in favor.