



TOWN OF MIDDLETON BOARD OF APPEALS

195 North Main Street
Middleton, MA 01949
Ph: 978-777-8917
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MEETING MINUTES

January 28, 2021
7:00 PM

**Virtual Meeting Space due to COVID-19 State of Emergency Pre-registration required:
Link to join Zoom webinar: <https://zoom.us/j/98044997158>
By phone: +1-929-205-6099 - Meeting ID: 980 4499 7158**

Members in Attendance/Zoom: Craig Hartwell, Chairperson, Anne LeBlanc-Snyder, Anne Tragert Cote, Clerk, Richard Benevento, Carolyn D'Amato-MacPherson

Absent: Jim Fox, Nick Yebba

Others Present Via Zoom: Katrina O'Leary, Town Planner
Starcia Melara, Recording Secretary

Chairperson Hartwell called the meeting to order at 7:02 P.M.

MINUTES:

Chairperson Hartwell called for a motion to approve the minutes of December 10, 2020.

MOTION: Mr. Benevento moved the motion to approve the minutes of the December 10, 2020 meeting. Ms. LeBlanc-Snyder seconded. All in favor. Therefore, the **motion carried.**

CONTINUED PUBLIC HEARINGS

A. 19 Lakeview Ave – Barbara & Kamil Olchowka – Special Permit to increase the size of a nonconforming structure and a Variance for dimensional requirements – Permit #1106

Mr. & Mrs. Olchowka explained the landscape of the property which included the depth of the slope, side of house, and street level. The home is set lower than street level on a slope that is approximately 15 ft at its highest point.

Photos, provided by the applicants, were then shown to the board.

Chairperson Hartwell asked if there were any questions or comments from the board.

Board members discussed the dramatic slope on the property that they were able to view on the previous site walk. Mr. Benevento asked questions specific to the location of alterations to the top of the slope and whether or not there would be an zoning setbacks or questions from the building department

Mr. Hartwell agreed that the property is very unique. He suggested that the board make a finding of hardship due to the unique physical characteristics with this property . Also, they limit the zoning variance to only the front of the property and the east side (right side of house) set backs, with a limit of 12 ft. Right side and front.

Chairperson Hartwell made a motion to make the necessary “findings” in order to grant a variance:

1. the extremely steep topography is unique to the lot
2. the topography creates a hardship due to the limited area on which to build
3. granting a variance for this lot will not be a substantial detriment to the public good nor derogate from the intent of the zoning bylaw

MOTION: Mr. Benevento made the motion. Ms. LeBlanc-Snyder seconded. All in Favor. Therefore the **motion carried**.

Chairperson Hartwell then called for a motion to grant the variance to allow the proposed addition to encroach on both the front and east side required setbacks, but no closer than 12 ft from both the front and east side lot lines.

MOTION: Mr. Benevento moved the motion to grant the variance. Ms. LeBlanc-Snyder seconded. All in Favor. Therefore the **motion carried**.

Chairperson Hartwell then called for a motion to find that the proposed addition(s) at 19 Lakeview Ave are not more detrimental than the existing nonconforming structure to the neighborhood.

MOTION: Mr. Benevento made the motion. Ms. LeBlanc-Snyder seconded. All in Favor. Therefore the **motion carried**.

Chairperson Hartwell then called for a motion to issue the Special Permit.

MOTION: Mr. Benevento moved the motion to approve the Special Permit. Ms. LeBlanc-Snyder seconded. All in favor. Therefore the **motion carried**.

NEW PUBLIC HEARINGS

A. 265 South Main Street – New Hampshire Signs – Special Permit & Variance to reface existing free standing sign and add electronic LED Fuel Pricer

Peter March spoke on behalf of the application. They are asking the Board for a Special Permit to allow the changing of the manual reader board to a digital one. Only fuel pricing will be displayed. There will be no moving images or pictures, only numerical figures. The lighting will be efficient by using clean, LED illumination. Mr. March detailed the benefits of a digital display to both the owner and the customers. He stated that all criteria for the special permit to be allowed, had been met. The new digital board will not adversely affect the neighborhood, will be neat and aesthetic, safer and more convenient for employees who previously had to change the signage. Satisfies the dimensional requirements.

The variance for “Synergy” elements of signage were also explained. The main use is to encourage traffic to enter and exit in a specific pattern. Mobil is trying to rationalize the use of the “Synergy” label with 3 goals: promoting Synergy brand (clean energy), traffic pattern and reducing clutter with respect to decals. They are asking to add a Synergy wave, blade, koala (hugs pole), and the wedge which shows the pump number.

Ms. Tragert Cote read correspondence from:

David McGlone -Planning Board
 Chief DiGianvittorio - Police Dept.
 Chief Martinuk - Fire Dept.
 Derek Fullerton - DPW
 Kristin Kent - Conservation Agent
 Paul Richardson -ICDRC

Chairperson Hartwell opened the meeting up to the public. Hearing no response, he opened the discussion to the Board.

Discussion was held surrounding the overabundance of signage the applicant is wishing to place on site. It was decided by the Board that the number of signs asked to be installed were in excess of what the bylaws allow. Hence, this is why the board was being asked for a special permit. An agreement was made between the Board and the Applicant to remove “Synergy” label/wording.

Mr. Benevento added that the new proposed LED price panels would be safer for employees, esthetically cleaner, he is seeing similar signs everywhere. He is in favor of organizing traffic on the site. Mr. March explained that they could only encourage (not mandate) flow of traffic.

Mr. Hartwell explained that if the Applicant and Board are in agreement of removing “Synergy” labeling, then no variance is required.

Mr. March requested to withdraw the variance portion of the application and he will communicate with the building inspector.

Chairperson Hartwell called for a motion to grant petitioner leave to withdraw the variance portion of application.

MOTION: Mr. Benevento moved the motion to allow the applicant to withdraw the variance

portion of application. Ms. LeBlanc-Snyder seconds. All in favor. Therefore, the **motion carried**.

Chairperson Hartwell called for a motion to issue the following findings:

1. The premises is an appropriate location for the proposed signs and that conditions affecting the premises are different from other similarly situated properties located in the district and; therefore, requires special relief;
2. The sign will not adversely affect or be incongruous with the neighborhood or surrounding zoning district in which it is to be located as it is similar in design to signs in the surrounding area;
3. To the extent that this sign will be similar to other signs in the area; there will be no nuisance or serious hazard to vehicular or pedestrian traffic or safety as a result of the sign, in fact the sign should increase readability in different lighting conditions and have a neater aesthetic appearance;
4. The sign satisfies all of the applicable dimensional and other criteria described in section 5.2 and will remain the same size as what is already existing.

MOTION: Mr. Benevento moved the motion to issue the findings. Ms. LeBlanc-Snyder seconded. All in favor. Therefore, the **motion carried**.

Chairperson Hartwell called for a motion to issue the Special Permit with the following conditions that sign not change more than once per hour.

MOTION: Mr. Benevento moved the motion to issue the Special Permit. Ms. LeBlanc-Snyder seconds. All in favor. Therefore, the **motion carried**.

B. 255 South Main Street – Barlo Signs – Special Permit under Section 5.2.9 to allow an electronic readerboard

Brandon Currier spoke on behalf of Barlo Signs. The applicants are asking to replace the current EMC at McDonalds with an electronic readerboard. He related to the board that the manual boards are dangerous for employees to have to change lettering. The new sign will be able to display messages electronically safely from inside the restaurant. There will be no animation (static images only), will fade on and off uniformly, and will not be a distraction to passing motorists or neighbors of McDonalds.

Ms. Tragert Cote read Correspondence from:

Chief Martinuk - Fire Dept.
 Kristin Kent - Conservation Agent
 Paul Richardson - ICDRC
 David McGlone -Planning Board
 Board of Health
 MELD

Chairperson Hartwell opened the discussion to the public. Seeing no response, he opened the discussion to The Board.

The Board collectively discussed that there were other digital signs close by and were also concerned with the particular area on 114 currently being dangerous and it is their opinion that adding an electronic sign that changes frequently will be a distraction to motorists. They were in agreement that the manual signs are hazardous to employees to change during inclement weather, etc. They also agreed that although the sign's dimensions did meet the bylaw's dimensional requirements, it may not change during peak traffic hours and must comply with current zoning by-laws.

Mr. Currier reiterated that there will be no distracting animation or flashing. The intent is for the client to display meal specials for breakfast, lunch, and dinner. He said the sign is equipped with ambient light sensors, as to not be too bright for passing motorists. Changes will be minimal as to not cause distraction to the public.

Discussion was held regarding the size of the new sign and conditions of the times the sign will be changed daily.

MOTION: Mr. Benevento made a motion to approve the Special Permit to allow an Electronic Message Board at 255 So. Main Street conditional upon the sign message being limited to the restrictions in the zoning bylaw and further being limited to 4 changes per day on the following schedule:

1. Once Before 7AM
2. Once between 10AM and 12PM
3. Once between 2pm and 3pm
4. Once after 7PM

Ms. LeBlanc-Snyder seconded it. Chairperson Hartwell asked for any further discussion, hearing none he called for a vote.

The members of the Board roll call voted: Mr. Hartwell, Mr. Benevento, Ms. Cote, and Ms. LeBlanc Snyder in favor; Ms. MacPherson opposed. **Motion passed 4-1.**

NEW OR OTHER BUSINESS

A. Bicycle & Pedestrian Improvement Program: Presentation & Discussion

Ms. O'Leary discussed the Town's "Complete Streets" policy. The Town is making an effort to include pedestrian amenities when applications come before the Planning Board, ZBA, etc. We've completed a prioritization plan in order to apply for "Complete Streets" grant funding. There is a pedestrian bike improvement plan. The Town has approximately \$180K available for sidewalk improvements. Everyone wants sidewalks so the improvement plan is the map of the prioritization rationale. Ms. O'Leary provided spreadsheets showing and explaining the criteria. The highest priority is down by McDonalds, River St., and S. Main St.

Ms. O’Leary is asking the various Town Boards to adopt the policy. It has already been adopted by the Planning board. It just needs to be implemented across the board. For example, if an application comes in front of the ZBA and they want to build a new property, the Board would have the opportunity to explain the sidewalk improvement plans to the applicants and let them know that, if approved, they will need to work with the town to provide sidewalk area on the land they want to develop.

The Board requested to review the plan further and put the topic on the agenda for the next meeting.

B. 59 So Main Street – “Blu Haven” Revised Architectural Plans (no ZBA action necessary)

Ms. O’Leary shared updated plans. The applicants will need to submit an age restriction policy to the ZBA before they can get their first building permit. The price-point for the homes are approximately \$700K. If no age restrictions are imposed, then affordable units can be required with development.

Mr. Benevento and Ms. O’Leary discussed access permits from MASSDOT, specifically for access of 114. Mr. Benevento is going to look into requiring this as a step for applicants coming before the board. Ms. O’Leary stated that the requirement is not directly contained in our current ZBA applications, but can be put on the agenda to discuss.

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

ADJOURNMENT:

Hearing no requests for further business, Chairperson Hartwell motioned to adjourn the meeting at 8:58 P.M.

Minutes respectfully submitted by Starcia Melara.

Minutes accepted at the board’s February 25, 2021 meeting.