



# TOWN OF MIDDLETON BOARD OF APPEALS

195 North Main Street  
Middleton, MA 01949  
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## MEETING MINUTES

February 25, 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 7:07 P.M.

### **MINUTES:**

Chairperson Hartwell called for a motion to approve the minutes of January 28, 2021.

**MOTION:** Mr. Benevento moved the motion to approve the minutes of the January 28, 2021 meeting. Ms. Tragert Cote seconded. All in favor. Therefore, the **motion carried.**

### **CONTINUED PUBLIC HEARINGS**

#### **NEW PUBLIC HEARINGS**

##### **A. 8 Grove Avenue – Antonio and Tammy Lawrence – Special Permit to demolish and reconstruct an existing non-conforming dwelling**

Mr. Lawrence appeared before the board on behalf of application. He went before the board previously, approximately 4 years ago. Property was built in the 1940’s. Looking to take it down and make it less non-conforming. Moving it back from the street. Mr. Lawrence shared a picture

of the proposed house that is to be built.

Ms. Cote Tragert read correspondence from:

MELD

Kristin Kent, Conservation Agent

Derek Fullerton, Health Dept.

Chairperson Hartwell asked if there was anyone to speak in favor or opposition to the application. Hearing none, he opened the discussion up to board.

Board members asked questions about the property location, if there were any neighbors, and about the number of bedrooms and septic. They also agreed that the project is a good use of the lot.

Chairperson Hartwell then called for a motion to find that the proposed reconstruction of the nonconforming dwelling at 8 Grove Ave. is less detrimental than the existing nonconforming structure to the neighborhood, that it satisfies a community need by allowing the reduction of a nonconformity, it has adequate town services and fits with the neighborhood character, it will adhere to the Board of Health's requirements for Title V and will have minimal impact on the environment, and it will generate additional property taxes.

**MOTION:** Ms. LeBlanc-Snyder moved the motion to approve the "Findings". Mr. Benevento seconds. All in favor. Therefore, the **motion carried**.

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

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

Chairperson Hartwell called for a motion to approve the Site Plan as submitted.

**MOTION:** Mr. Benevento moved the motion to approve the Site Plan. Ms. LeBlanc-Snyder seconds. All in favor. Therefore, the **motion carried**.

## **NEW OR OTHER BUSINESS**

### **A. 59 So Main Street – Review & Vote Regarding Age Restriction Policy**

Ms. O'Leary spoke with the applicant and informed them that did not need to be present at tonight's meeting. They are asking the Board to approve an age restriction. It has already been approved by the Town Council. However, the ZBA needs to accept before a building permit is issued. The policy is consistent with other age restriction projects.

Chairperson Hartwell asked for a motion to approve the age restriction policy.

**MOTION:** Ms. LeBlanc-Snyder made a motion to accept the age restriction policy as submitted for Blue Haven. Ms. Cote Tragert seconds. All in favor. Therefore, the **motion carried**.

### **B. Bicycle & Pedestrian Improvement Program: Presentation & Discussion**

Ms. O’Leary provided additional information to the Board, allowing time for review, after the last meeting. She explained more about the need for sidewalks in Middleton and how future developments can help provide funds or include them as part of construction when building a new development. There is some Town money set aside for the use of sidewalks. The town needs to figure out where sidewalks are needed the most before spending the funds from the revolving account. Board can require pedestrian amenities as part of a policy for future commercial developments. The zoning by-laws give the ZBA the right to impose this, if they choose to adopt it.

Chairperson Hartwell asked if any board members wished to speak.

Discussion held around whether or not the policy can be implemented. Attorney Mann stated that she is in agreement with the board about being in partnership between the Town and developers. However, she explained that the policy is unconstitutional and cannot be enforced. She went on to add the legal reasoning behind it.

Debate ensued between Atty. Mann and Mr. Benevento regarding mitigation and the policy of pedestrian impact.

Chairperson Hartwell likes the spirit of the policy. Has a couple of concerns. He suggested that board members submit any questions, comments, and concerns 2 weeks before the next meeting so they can discuss then.

### **C. Discussion regarding MassDOT Highway Access Permitting**

Mr. Benevento stated to the board that State highway, 114 has a lot of new development taking place. He had a discussion with MassDot and was informed that anyone doing work on 114 is required to have an access permit. We have to rely on the Town to keep track of obtaining evidence from developers either that they received a permit or at least applied for one. MassDot is not going to come out and correct anything on their own.

Ms. O’Leary added that she had reached out to other town planners and asked what they do about making sure highway permits are accounted for. The answer was that there was no requirement in place. MassDot doesn’t issue permits beforehand. Some towns add conditions in the decision regarding the permits. She suggested that the Board can include in the general conditions that applicants need to get Mass Dot permits if they are building on a state highway.

Chairperson Hartwell asked if anyone else wished to speak.

Atty. Mann asked what the Board would like from developers to give them from DOT if a permit is not needed? The building department asks for proof of such permits attained, before a building

permit is issued.

The Board agreed on present language with additional language regarding MassDOT permits.

**MOTION:** Mr. Benevento moved to amend general conditions to include MassDOT permits. Ms. LeBlanc-Snyder seconds. All in favore. Therefore, the **motion carried**.

**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 8:28 P.M.

Minutes respectfully submitted by Starcia Melara.

Minutes accepted by the ZBA at their March 25, 2021 meeting.