

**Zoning Board of Appeals Minutes**  
**Selectmen's Room, Middleborough Town Hall**  
**10 Nickerson Avenue, Middleborough, MA 02346**  
**April 14, 2022**

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, Jack Healey, Matthew Maher, and Joseph Mandile were present.

**7:30 P.M. Minutes**

Upon a motion made by Liz Elgosin and seconded by Jack Healey, the board

VOTED: **to approve the minutes of March 24, 2022.**

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, Jack Healey and Matthew Maher were in favor.  
(5-0)

**7:30 P.M. Peter Varrasso, Jr. - Everett Street, Ma 41M, lot 4923, Map 041, lot 4187 and Map 040, 4895**

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open. The applicant has requested a continuance of tonight's hearing as he is working with the Conservation Commission on a few items.

Upon a motion made by Jack Healey and seconded by Liz Elgosin, the board

VOTED: **to continue the hearing until April 28, 2022.**

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, Jack Healey and Matthew Maher were in favor.  
(5-0)

**7:32 P.M. Michael O'Shaughnessy for Sachem Construction- 691 Wareham Street**

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open. Michael O'Shaughnessy, Esq has requested a continuance of tonight's hearing to April 28, 2022. It was brought to his attention that the land across from the project is in the Town of Rochester and were not properly notified.

Upon a motion made by Liz Elgosin and seconded by Dr. Edward Braun, the board

VOTED: **to continue the hearing until April 28, 2022, and have the petitioner provide special notice to the abutters listed on the enclosed Town of Rochester abutters list by first class mail, and by certified mail as to the next scheduled hearing date, giving not less than five nor more than ten additional days to reply.**

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, Jack Healey and Matthew Maher were in favor.  
(5-0)

**7:33 P.M. Thomas Ryan for Diamond Cut Development - Miller Street, Map 080 lot 3519**

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

Nyles Zager, Zenith Consulting Engineers said at the previous hearing a few issues needed to be addressed. One was the amount of fill being brought in. There has been a note added on the plan for 7,700 yards of fill being brought in, which amounts to about 280 truckloads over the span of time. The fill will be clean and free of contaminates. Also, a note has been added for the truck route going down Cushman and then Miller. They had a zoom meeting with Christopher Peck, DPW Director, Selectman

**Zoning Board of Appeals Minutes**  
**Selectmen's Room, Middleborough Town Hall**  
**10 Nickerson Avenue, Middleborough, MA 02346**  
**April 14, 2022**

Mark Germain, Logan Smith and Michael Bumpus, Water Superintendent regarding the earth filling procedure. Basically they came to an agreement that the material that would be brought on site had to be virgin material and potentially being brought in from Byrne Sand and Gravel. It was agreed that they would look into this. There will be bill of ladings from the company they are purchasing from that it has to be free of contaminates. Christopher Peck, DPW Director and Michael Bumpus, Water Superintendent will be notified of this by the applicant.

Nyles Zager reviewed the updated architectural drawings for the board.

Discussion ensued regarding the fencing. There is currently a 9' berm with a natural buffer, so the fencing will not be necessary.

Chairman Darrin DeGrazia asked if they had any objection to notifying the abutters prior to the start of compacting this site. The applicant has no objection to that. Richard Cummings, 12 Cushman Street said he has already been through this with another project. He would prefer to see the trucks come in the other way, because he's already dealt with this. He's had water lines broken, things falling off the wall, housing rattling all day long and trucks coming and going at 4:30 a.m. Richard Cummings said have them go Smith Street to Miller Street. He also does not want to pay again for everything that get broken in his house again. Matthew Maher suggested videotaping his foundation and dwelling prior to, and have it dated and notarized to protect himself.

Lengthy discussion ensued regarding the truck traffic. The board agreed it is not safe to have the trucks que on Route 28. The trucks will go Smith Street to Miller Street.

Joseph Mandile asked how long the 280 trucks would be anticipated to last. Nyles Zager said it would depend on where the material was coming from and how readily available it is. Discussion ensued regarding how many truck loads a day. Joseph Mandile said they would be talking about 3-4 weeks maximum for the trucks and compacting. Matthew Maher asked what kind of compactor they will be using. Nyles Zager said a vibratory roller.

Jack Healey asked who will be testing the soil. Matthew Maher said it would be certified from the source it is coming from. The Board of Selectmen has already requested that they buy from Byrne Sand and Gravel. Jack Healey said it should be tested when it arrives on site. Matthew Maher said it would be on the seller who is selling a specific product.

Lengthy discussion ensued regarding the testing of the soil.

Dawn Reilly, Wareham Street has concerns with the amount of fill that needs to be brought it and is concerned with the compacting. Matthew Maher said he would suggest taking before and after pictures to protect themselves. Discussion ensued regarding the grading.

Hearing no further comments Chairman Darrin DeGrazia closed the hearing and called for a motion.

Upon a motion made by Liz Elgosin and seconded by Joseph Mandile, the board

**Zoning Board of Appeals Minutes**  
**Selectmen's Room, Middleborough Town Hall**  
**10 Nickerson Avenue, Middleborough, MA 02346**  
**April 14, 2022**

**VOTED: to approve the petition of Thomas Ryan, Esq for Diamond Cut Development LLC relative to his request to be granted a special permit pursuant to Section 9.4 of the Middleborough Zoning By-laws to allow for the construction of five (5) residential dwelling units in one (1) duplex and one (1) triplex style buildings. The subject property is located at Miller Street, Middleborough Assessor's Map 80, lot 3519, in the General Use District.**

- 1. As per the plans entitled Site Plan to Accompany Zoning Board of Appeals Special Permit Map 80, lot 3519 Miller Street, Middleborough, Massachusetts, dated November 30, 2020 and revised through April 6, 2022, drawn by Zenith Consulting Engineers consisting of eight (8) sheets.**
- 2. As per the architectural plans dated April 6, 2022 for Diamond Cut, Miller Street drawn by Home Resource Consultants, Mahomet, MA 02345.**
- 3. Prior to the issuance of any building permit the applicant shall coordinate a meeting with Chris Peck, DPW Director and Michael Bumpus, Water Superintendent for the exchange of documentation (bill of ladings) for the fill and a weekly submission of the documentation shall be provided to Chris Peck. The applicant, at his expense, shall hire a third party firm for soil testing from the source (Byrne Sand and Gravel) to ensure it is free of contaminates. Testing results shall be provide to Christopher Peck, DPW Director and Michael Bumpus, Water Superintendent.**
- 4. The applicant shall comply with the letter dated February 18, 2021, from Christopher Peck, DPW Director.**
- 5. The applicant shall comply with the letter dated February 18, 2021, from Richard Johnson, Amory Engineers to Michael Bumpus, Water Department Superintendent.**
- 6. The applicant shall notify the abutters within 300' of all property lines when the compacting will begin. Such notice shall be given 48 hours in advance.**
- 7. The hours of operation during construction will be Monday – Friday 7:00 a.m. to 4:00 p.m. There shall be no construction on Saturday, Sundays or holidays.**
- 8. Construction trucks will use Smith Street to Miller Street to access the property.**
- 9. To ensure traffic safety the corner of Wareham Street and Miller Street shall be cut back 15' and maintained as such for the line of site. This shall be the first order of business on site prior to construction.**

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, and Joseph Mandile were in favor. Jack Healey was opposed. (4-1) Therefore, the motion passes.

**Zoning Board of Appeals Minutes**  
**Selectmen's Room, Middleborough Town Hall**  
**10 Nickerson Avenue, Middleborough, MA 02346**  
**April 14, 2022**

Upon a motion made by Dr. Edward Braun and seconded by Liz Elgosin, the board

VOTED: ***to adopt the following findings:***

- 1. The proposed site is appropriate for use and structure. It is noted that the applicant down sized the project from six to five units to fit the lot.***
- 2. Adequate and appropriate facilities have been provided to insure the proper operation of the use, structure or condition. There are a variety of stipulations approved for this project.***
- 3. Traffic flow and safety, including parking and loading are adequate and there will be no nuisance or serious hazard to vehicles or pedestrians. It is noted that hours of operation have been established as well as a truck route.***
- 4. Adequate water, sewer and other utilities as well as other public and private services are available or will be provided.***
- 5. The use involved will not be detrimental to the established or future character of the neighborhood and town and has been subject to appropriate conditions and safeguards.***

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, and Joseph Mandile were in favor. Jack Healey was opposed. (4-1) Therefore, the motion passes.

Upon a motion made by Liz Elgosin and seconded by Joseph Mandile, the board

VOTED: to adjourn at 8:43 P.M.

Unanimous vote.