

**Town of Medway  
Zoning Board of Appeals Meeting  
School Committee Presentation Room  
Medway Middle School  
45 Holliston St, Medway MA**

**MINUTES OF MEETING**

**June 15, 2016**

**Present:** Chairman David Cole; Clerk Carol Gould; Committee Members: Eric Arbeene (arrived at 7:57 PM), William Kennedy and Brian White; and Associate Member Rori Stumpf (left at 10:14 PM).

**Also Present:** Stephanie Mercandetti, Director, Community and Economic Development; Mackenzie Leahy, Administrative Assistant, Community and Economic Development; Ezra Glenn, Public Planning Research & Implementation, Inc.; Sean Reardon, P.E., Vice President Tetra Tech, Inc.

David Cole, Chairman, called the meeting to order at 7:46 PM.

**Citizen comments:**

There were no members of the public that wished to make comments on items other than those already on the agenda.

**Public Hearings:**

**7:45 P.M. – (Continued from June 1, 2016) The Applicant, Timber Crest, LLC, seeks a Comprehensive Permit under MGL c. 40B, Sections 20-23 as amended, to allow construction of 188 unit development to be called “Timber Crest Estates” containing 25% affordable units on 163.07 acres which is comprised of the properties located at 143 Holliston Street, 153R Holliston Street, 177A Holliston Street, 21R Fairway Lane, 13 Ohlson Circle, 102 Winthrop Street, 11 Woodland Road, and 0R Woodland Road, Medway, MA.**

***[Focus areas: traffic, safety, and access]***

Chairman Cole explained that the focus for the hearing would be traffic, safety, and access.

The Board is in receipt of the following documents:

- Traffic impact and assess study
- Timber Crest 40B review memo from the Town’s 40B consultant, Mr. Ezra Glenn

- Letter from town's engineering consultant, Mr. Sean Reardon, summarizing traffic study review
- Memo from Stephanie Mercandetti summarizing Timber Crest Estates Public Safety Meeting of June 15, 2016

The applicant and developer, Mounir Tayara of Timber Crest, LLC; the developer's 40B consultant, Paul Cusson of Delphic Associates; the developer's engineer, Jim Pavlik of Outback Engineering; and the developer's traffic consultant, William Scully of Green International Affiliates, Inc. were present to discuss the project with the Board.

Mr. Cusson noted that a copy of the comments made by Medway's consultant, Mr. Reardon, was received on the previous night and the team had not had a chance to complete a thorough review prior to the meeting.

Mr. Scully began his discussion of the traffic impact assessment that was conducted by explaining that the report examines the potential project related traffic impacts on the adjacent roadways and nearby intersections. The analysis and evaluation included traffic volumes, safety data and review, as well as an analysis of the roadway/site access interface. Guidelines of the Massachusetts Department of Transportation (MassDOT) and the Institute of Transportation Engineers (ITE) were used for completing the study. The contents of the report include conditions of existing characteristics of the abutting roadway network, current traffic conditions, estimated traffic impacts and access/egress characteristics of the development. The selection of the study area took into account the location and type of project and focused on the evaluation of the roadways and intersections in the vicinity of the site that are anticipated to be most impacted by the proposed development. The following intersections were included in the study: Winthrop Street at Hill Street, Winthrop Street at Stephanie Road, Winthrop Street at Partridge Street, Winthrop Street at Lovering Street, Holliston Street at Fairway Lane, and Holliston Street at Redgate Drive. All the intersections in the study area are unsignalized. The traffic assessment was initiated in 2015 and the report was finalized and submitted this year. It has been peer reviewed by Mr. Reardon, but not enough time was provided in order to generate a formal response prior to this meeting. Most comments seem to be relatively minor and therefore no changes to conclusions are anticipated.

Mr. Scully presented data and conclusions of current traffic conditions in Medway. Winthrop Street and Holliston Street are considered moderate volume roadways (they carry approximately 30% of the volume that Route 109 carries). Turning movement counts at these locations at morning and afternoon peak periods were collected in early June of 2015 (MassDOT data shows that June is an above average month for traffic and thus a good month to use for the assessment). Peak 60 minute morning and afternoon periods were identified, and data points were generated. 48-hour automatic traffic recorder (ATR) counts were also conducted during the same week along Winthrop Street, Holliston Street, Cider Mill Road, Fairway Lane, and Fern Path. Operating conditions, level of service analysis, capacity of roadways, as well as motorist delays that may be experienced during that time were reviewed.

The data showed that all intersections assessed are currently operating at a high level of service (A/B level) and able to accommodate additional traffic. Crash information was evaluated from 2011-2013 and indicated that crash data is low, although the Winthrop Street and Lovering Street intersection did show more than expected number of crashes. According to Mr. Scully, Chief of Police Allen Tingley did not raise that intersection as a level of concern.

Mr. Scully explained that as per the standard process, the impact of the proposed project on the roadway network within the study area was evaluated. The study used the year of 2022 for the future analysis year, using a 7 year timeframe consistent with current MassDOT guidelines for traffic studies. This timeframe takes into account initiating planning/design, the permit review process, construction period, and time to fully occupy the project. A year 2022 No-Build traffic volume network was developed by identifying potential area-wide background traffic growth and known specific nearby development projects that could contribute to traffic flow on the 2022 study network. Looking at historical trends (Mass DOT), traffic volumes have been pretty stable over last 7 years, with a 1% growth rate observed from 2015 to 2016. This rate was applied annually until 2022 for projection calculations. In addition, traffic estimates from the Millstone Village development (80-unit adult retirement community in the early stages of development about 1,600 feet south of the Winthrop Street site drive, southwest of the Lovering Street /Winthrop Street intersection) were included in the No-Build analysis. Next, the team calculated an estimate of traffic to be generated by the proposed development project and assigned to roadways/intersections within the study area to develop the Build Traffic condition, based upon the year 2022 No-Build traffic volume network. In order to estimate the number of trips that could be generated by the proposed development, statistics published by the ITE and residential related models were examined. Mr. Scully stated that the single family home component is estimated to generate 816 vehicle trips (408 entering and 408 exiting trips) over the course of the 24 hour weekday period. During peak hours, it is estimated that this component will generate 63 vehicle trips during the morning peak hour and 82 vehicle trips during the evening peak hour. For the condominium component, it is estimated that 732 vehicle trips (366 entering and 366 exiting trips) would be generated over the course of the 24 hour weekday period. During the peak hours, it is estimated that this component will generate 58 vehicle trips during the morning peak hour and 68 vehicle trips during the evening peak hour. Combining both components provides an estimated 1,548 additional vehicle trips over the course of an average weekday, 121 trips during the average weekday morning peak hour, and 150 trips during the afternoon peak hour. In summary, Mr. Scully noted that the traffic assessment predicts relatively low increases in traffic volume as a result of the project. Less than 100 vehicles per hour are expected to be added during each peak hour on Winthrop Street north of Hill Street. South of Stephanie Road about 50 vehicles per hour are expected to be added on Winthrop Street during either peak hour. The traffic volume increases on Holliston Street are less than three percent greater in the Build versus No-Build during either weekday peak hour.

Mr. Arbeene asked what hour was selected as the AM peak hour. Mr. Scully said that he would need to check the report for the exact hour, but it was between 7 and 9 AM.

In terms of intersection capacity, the analysis showed that the proposed development project will enable motorists to enter and exit the site in a safe and effective manner, with manageable delays for entering and exiting motorists. An analysis of sight distance was also included in the traffic assessment as adequate sight distance is an important safety consideration at intersections. The stopping sight distance criteria, which is the most important sight distance standard for safety, are exceeded at all locations for the posted speeds and at the higher 85th-percentile speeds at all site access driveway locations. Mr. Scully does recommend that consideration be given to installing intersection advance warning signs and that the town may want to consider installing additional signs including speed display signs as well as increase the level of speed enforcement, if feasible, regardless of the proposed project.

Chairman Cole commented that the analysis results of 816 vehicle trips for the west side of the development and 732 vehicle trips for the east side seemed low for the condominium component given the large size of the condominiums. Mr. Scully responded that larger single family homes have repeatedly been shown to generate more traffic than smaller single family units.

Mr. Arbeene expressed concern over the hill that is present as you travel from Holliston into Medway near the proposed site entrance for the single family side of the project. Mr. Scully recognized that the road topography at that location does pose a safety concern, and suggested appropriate signage and speed display as well as additional police enforcement of speed limits as potential methods for increasing safety. Mr. Arbeene also asked if any counts had been conducted on Lovering Street and Mr. Scully said that they had not. Mr. Arbeene suggested that the intersection at Lovering Street, Holliston Street, and Coffee Street be studied as significant backups occur there.

Mr. White asked for clarification for the rating system used to determine level of service for unsignalized intersections. Mr. Scully explained that a grade A represents a wait time of  $\leq 10$  sec, B  $>10$  and  $\leq 15$  sec, C  $>15$  and  $\leq 25$  sec.

Mr. Kennedy inquired about the plan for the developer to be able to connect to a private roadway. Mr. Cusson noted that this matter is a legal issue that will be further investigated, and added that a bond has been posted.

Mr. White asked for a definitive answer in regard to connection to Fern Path. Mr. Tayara responded by stating that they have two options; one is to use Fern Path as a major egress and the second is to use Fern Path as an emergency road only. The final plan will depend on the Board's decision, but Mr. Tayara and his team believe it will be better as a normal egress. Mr. White asked if this matter is being looked into from a legal standpoint and Mr. Cusson replied

that the developer and his team are willing to work with the Board and asked that the Board provide direction for future steps.

Mr. White made a comment in regard to the public safety meeting that took place earlier in the day. In regard to the secondary emergency access road (connecting to Ohlson Circle), he believes that an Opticom is preferable to a lockbox and noted that the development's homeowner's association would be responsible for the maintenance of the emergency roadway. Mr. Cusson elaborated and noted that the Opticom option needs to be investigated and added that the gate would be a break-away gate for emergency situations (the electronic system would be for emergency vehicle only). Additionally, Mr. White stated that he wanted to reconfirm that sidewalks will be present all along the development. Mr. Tayara assured him that they will be.

Mr. Reardon summarized the comments from the Tetra Tech memo that was provided to the Board as well as to the developer after reviewing the Traffic Impact and Assess Study. Mr. Reardon began by explaining that the methods used in the study are methodical and not unique and added that most of the comments deal with a bookkeeping exercise and will not impact the conclusions. He generally agrees with the findings of the study and noted that it is rare to see A and B ratings for intersections which should provide confidence that the network is fairly robust. Mr. Reardon did point out that accident data is missing information, including a fatality, and requires more investigating and revising of the crash analysis. Tetra Tech also recommends that the study area be expanded to include the Holliston Street /Lovering Street /Coffee Street intersection as well as the Hill Street /Cider Mill Road intersection. Tetra Tech provided specific comments in regard to safe sight distances and recommends that the plan is clear as to where sidewalks are being built and where handicap access will be incorporated. The number of guest parking spaces on the condominium side of the project seems excessive.

Chairman Cole expressed concern over the variances on all roadway widths. The town standard is 24 feet and variances asked for 22 feet on the condominium side of the project. Mr. Reardon pointed out that people often travel faster on wider roads and therefore a slightly narrower road may reduce traveling speed within the development. Furthermore, it reduces the amount of roadway that requires paving therefore reducing what needs to be mitigated in terms of stormwater. Mr. Glenn noted that the condominium side is intended to stay a private way. Mr. Cusson indicated that road width was discussed at the safety meeting that morning and posed no issues. Mr. Pavlik also pointed out that as discussed at the safety meeting, "no parking" signs will be added to one side of the street.

Mr. White commented on the location of the guest parking area on the condominium side and suggests that its use is highly unlikely.

Chairman Cole asked where the snow will be placed, particularly on the condominium side where the gaps between units are fairly narrow. Mr. Tayara, noted that his team is working on modifying the design slightly to accommodate snow. Mr. Reardon added that the condominium

units are also pretty close to the road and snow removal is exacerbated by the fact that there are so many wetlands around. Mr. White noted that the condominium side will have to haul snow if they have no place to put it whereas the single family side will be more of a town issue.

Mr. Kennedy asked why the roads on the condominium side will remain private. Mr. Cusson explained that towns typically don't accept condominium roads as public roads. Single family portion will go through town meeting process for public road approval. Chairman Cole agreed that the condominium side roads should be kept private.

Chairman Cole asked if any objections had been raised in regard to the long road lengths in the plan. Ms. Mercandetti noted, for public knowledge, that the applicant and his engineer met with town fire, police, and safety officials earlier in the day. Road length was discussed and no issues were raised, it was more around maneuverability for fire trucks and how long an ambulance would have to back up. Also discussed were safety concerns and types of signage. Additionally, a large portion of the meeting focused on proposed access connecting to Ohlson Circle in regard to paving and maintenance of the access roadway. Supplemental discussions were on fire hydrants, numbering, and school bus drop off. While the location of the bus stop near the condominium side were made known, a question about one of the bus stops being moved into Fairway Lane was posed and this will need to be investigated for feasibility and in coordination with the School Department.

Mr. Cusson reiterated that the developer is seeking direction from the Board for future steps and will make necessary changes to plans as suggested by the Board.

Ms. Gould asked for a confirmative answer in regard to the legal aspects of connecting to a privately owned road. Mr. Cusson said that the team is still looking into those matters.

Mr. White asked about trash pickup in consideration of turning radius for the trucks. Mr. Tayara informed him that they are considering the same system for trash pickup that is currently in existence in Medway, only by a private company. Not considering a central trash location.

#### Public comments:

Kurt Schaefer of 13 Fairway Lane asked if the traffic study included commercial vehicles. He also wanted to point out that quite a few accidents have occurred as vehicles are attempting to turn into Fairway Lane because of the hill on Holliston Street. He noted that the intersection at Fairway Lane and Holliston Street is much more dangerous than it appears and asks for consideration to be given to safety at this intersection. Mr. White asked Mr. Schaefer to please email the Board a list of all accidents that he has knowledge of.

Mr. and Mrs. O'Neil of 4 Fern Path approached the Board with their attorney, Michael P. Sams, Esquire. Mr. Sams commended the Board for being appropriately focused on the legal access to Fern Path. He stated that there seems to be a significant misunderstanding when it comes to access to the private road, and explained that it is not dependent on permission from the Town or from one sole person. The Derelict Fee Statute governs the interpretation of deeds when

they convey title to properties that abut ways in Massachusetts, where the grantors also own abutting ways. By operation of the statute, title to property abutting a way carries with it either (i) ownership to the midpoint of the way, when the grantor retains land on the other side of the same; or (ii) ownership of the entire width of the way, when the grantor does not own land on the other side of the same. The way that the deeds were written upon sale of the lots on Fern Path, grants ownership of the road to the owner of each lot, therefore their permission would be required in order for the developer to gain access to Fern Path. As a representative of Mr. and Mrs. O'Neil, he informed the developer and the Board, that the O'Neils do not give permission for access to the private road. Additionally, based on conversations with other neighbors, it is Mr. Sams' understanding that they also do not intend to give permission for access.

Chairman Cole noted the severity of the issue being raised and asked that Mr. Sams reduce his conclusions and legal analysis to writing and submit to the Board. These legal matters will then be forwarded to Town Counsel.

Mr. Cusson stated that the statute may not cover usage of a private roadway as an emergency egress.

Mr. Glenn affirmed that it is important to notice that this issue cannot be resolved by the Board. Ideally, it can be reviewed now and changes made to the plan later.

Laurie Mackay of 106 Winthrop St. said that she finds the traffic to be very aggressive along her street and notes that it is very difficult to access the playground on Partridge Street in a safe manner. Furthermore, Ms. Mackay added that the soccer fields are also across the street and that traffic is very heavy along Winthrop before and after practices and games. The traffic study may not have covered the times at which these events are taking place. She also said that she has removed all but one bush from her driveway and it is still dangerous to exit onto Winthrop Street. A safety officer is scheduled to go take a look at her driveway. Ms. Gould agreed that the Idylbrook soccer fields are the main soccer fields for the Town and the times at which those fields are used may not have been incorporated into the study. Ms. Mackay further stated that she has submitted a letter in regard to braking distances and reaction times. Lastly, she expressed her concern for children who will need to cross the street in order to get to the bus stop with the addition of so many vehicles from the proposed development.

Mr. Dennis Crowley of 6 Hill St. commented that he was under the assumption that both sides of the development were going to be private. Mr. Crowley also expressed his extreme concern for the safety of the children waiting at the bus stop, particularly on the condominium side, given the potential large amount of children plus parents and cars from those that drive to the bus stop (especially during the winter months). He also followed up with what Mr. Sams brought up in regard to legal access to private roadways and added that the concern is not just Fern Path, but also Howe Street and Redgate Drive (Redgate Drive has not been accepted by the Town yet). He asked if the Town will get relief from the 180 day review period if these

items cause a delay. Mr. Glenn noted that the Town would typically request an extension, or the Board can deny the request for lack of information. Mr. Cusson added that at this time, the remaining outstanding items would be assessed and a decision made on how to proceed. Mr. Crowley mentioned that the legal access to the private roads has been a known issue to which the developer has sought no resolution. Upon being asked by Mr. Crowley whether the developers of the two subdivisions as well as the lots on Fern Path had been contacted, Mr. Cusson affirmed that they had not.

Cindy Maliniak of 14 Fairway Lane believes that the number of vehicles exiting the condominium side of the development is significantly underestimated. Mr. Scully explained that when building the forecast, models are based on observations of similar developments. He clarified that the numbers Ms. Maliniak is referring to represent travel during peak times only and not everyone goes to work during those peak times. Ms. Maliniak said that there are 16 houses on Fairway Lane and at one point she had 5 cars at her house alone, in addition to the 3-4 cars at every other house. She added that her and most of her neighbors moved into the neighborhood between 1988 and 1989 and that by 1992 there 40 children between 16 houses. She asked how the estimate of 75 children in the entire development can be correct. Ms. Maliniak also spoke about the dangerous intersection at Fairway Lane and Holliston Street due to the blind hill and noted that during the winter months most parents drive their kids to the bus stop. Where will all of these cars park while waiting for the bus? She stated that it is dangerous and implausible. Ms. Maliniak mentioned that the school bus has never gone down Fairway Lane because it would need to cross a double yellow line and deal with the blind hill in order to do so. She therefore doesn't see the bus stop being moved into Fairway Lane as a viable option. Ms. Maliniak further noted that the developer is looking at numbers and not at people and that in her opinion they are not looking to build a community where families can live happily. She concluded by asking the fire chief to conduct an analysis of the water pressure coming out of fire hydrants. Chairman Cole informed her that sewer and water will be topics for discussion at the next hearing.

Robert LeBlanc of 108 Winthrop Street spoke to the limited vision on Winthrop Street north of Stephanie Drive and stated that the cars come extremely close to him when he is walking his dogs along that road. Mr. LeBlanc added that turning left onto Route 109 at the bottom of Winthrop Street is extremely difficult and dangerous.

Gary Neubauer of 4 Ohlson Circle asked if the emergency access road connecting to Ohlson Circle would be gravel or paved. Chairman Cole stated that as per the safety meeting held earlier that day, the road would have to be paved as it would need to be plowed. Mr. Neubauer expressed concern over the people that would have access to that road since most will be contract drivers and not Town personnel. Ms. Mercandetti noted that access would just be for emergency vehicles. Mr. Neubauer mentioned that he was misinformed about the topics of discussion for tonight's meeting and stated that it was his understanding that meetings have to be posted 7 days in advance. Ms. Mercandetti explained that open meeting law requires



that meeting agendas be posted at least 48 hours in advance, excluding weekends or holidays, and assured Mr. Neubauer that this meeting had been posted in accordance with open meeting law. Ms. Mercandetti further noted that the topics of discussion for this meeting were mentioned at the last meeting and informed the public that they can sign up to receive email notification when an agenda has been posted by subscribing via the Town website.

Mr. Armand Pires, Superintendent of schools, informed the Board and the developer that an independent enrollment projection study is being conducted. The main concerns are with student walkers as well as physical space for students. Mr. Pires also noted that current School Committee policies do not allow for buses to enter these developments. Mr. Pires asked for full cooperation from the developer. Mr. Cusson stated that the development will be a phased approach to minimize impacts on the community and schools in particular. Chairman Cole requested an indication of the phasing. Mr. Scully commented that school bus routes were not included in the traffic study, but will need to be assessed. Mr. White added that Medway is a family community and we naturally worry about the safety of our school children. He asked the developer to please take into account some sort of shelter for children at bus stops.

Mr. White asked for an estimate for development completion and Mr. Cusson said it would be a 5-7 year process. Chairman Cole noted that no more than 30% would be sold within a given year. Mr. Glenn requested that a draft of the phasing plan for the development be submitted.

Laurie Mackay of 106 Winthrop Street said that they have experienced a lot of construction vehicle traffic as a result of the construction of the Millstone Village development and is concerned with an additional 7 years of construction traffic due to the Timber Crest Estates development. Her main concern is with the longer stopping distances required for the large construction vehicles. Chairman Cole asked if calculations for stopping distances take different vehicles into account. Mr. Reardon explained that vertical geometry has the greatest bearing and noted that aberrant driving cannot be accounted for.

Ms. Mercandetti noted that initial comments had been received from Fire Chief Lynch. Chief Lynch stated that all of his concerns are being addressed. Ms. Gould voiced concern with the turning radius for emergency vehicles as well as how the length of the roads within the development will impact response time for emergency vehicles. Chief Lynch assured her that an analysis will take place for turning radius and seemed confident that emergency crews will be able to respond within an adequate timeframe. Mr. Stumpf asked if there a concern with having only one egress on the west side of development. Chief Lynch commented that there will be a break-away gate at the emergency road connecting to Ohlson Circle. Mr. White asked if the fire department has considered the potential sizes of vehicles that may be added to the fleet in the near future. Chief Lynch noted that while new fire trucks are not any smaller, the tanker on the current fleet has the widest turning radius and the analysis will need to be based on that vehicle specifically. He doesn't anticipate trucks in the future having a larger turning radius than that.

Chairman Cole reiterated the serious consideration in regard to access to Fern Path. Due to the fact that the Board is working under deadlines, Chairman Cole proposes that when submissions from the abutter's attorney are received (assuming within 14 days) copies be sent to Town Counsel along with the development plans. Copies should also be sent to the applicant's attorney in order to give the applicant the opportunity to respond. Chairman Cole would like opinion of Town Counsel as to whether there is in fact access to Fern Path either generally or for emergency purposes or not at all. Mr. Kennedy suggested also looking at Redgate Drive.

Ms. Mercandetti stated that she will make an inquiry on behalf of the Board to the town administrator.

Mr. Glenn urged the developer to prepare a full argument in advance and be prepared to show that they do indeed have access to the property.

***Chairman Cole moved to empower Stephanie Mercandetti, Director, Community and Economic Development, to receive submission from an abutter about access via private road, that the director shall furnish a copy of submission to the applicant and further be empowered to approach town administration and other town officials to allow the Board to get the opinion of Town Counsel. Mr. White seconded and it was passed unanimously.***

The public hearing for Timber Crest, LLC was continued to Wednesday, July 20<sup>th</sup> at 7:45PM with the focused topics of discussion to be stormwater management, wetlands, water and sewer.

#### **Upcoming Meetings:**

July 6, 2016:

7:45 PM- Public hearing for Alder Street Realty LLC, 51 Alder Street- Variance from Sections 5.4 and 6.1

8:00 PM- Public hearing for Jeff Grenon, 6 Norfolk Avenue- Variances from Section 6.1

#### **Approval of minutes:**

Chairman Cole noted a couple of grammatical changes to the draft meeting minutes for June 1, 2016.

***A motion to accept the Minutes of the June 1, 2016 meeting with a minor change was made by Mr. Arbeene, seconded by Mr. Kennedy and approved unanimously.***

#### **Correspondence:**

Letter from Attorney Bethany Bartlett re: Medway Shopping Center

Chairman Cole stated that now that the survey has been complete, the applicant needs an additional variance that is outside the scope of the previous application. A new application will therefore need to be filed. Ms. Mercandetti noted that she had alerted Attorney Bethany

Bartlett to this possibility and will communicate the Board's decision promptly. If a new application can be submitted by noontime on Friday, there will be enough time to advertise in order for the hearing to take place at the July 6<sup>th</sup> meeting. This hearing is tentatively scheduled for 8:15 PM on July 6, 2016.

**Adjournment**

***A motion to adjourn was made by Mr. Arbeene, seconded by Mr. White and passed unanimously. The Board adjourned at 10:24 p.m.***

Respectfully submitted,

Filipa LeClair  
Meeting Recording Secretary