

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

MINUTES OF MEETING

June 1, 2016

Present: Chairman David Cole; Clerk Carol Gould; Committee Members: Eric Arbeene, William Kennedy and Brian White; and Associate Member Rori Stumpf.

Also Present: Stephanie Mercandetti Director, 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 7:38 PM.

Citizen comments:

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

Approval of minutes:

No changes were suggested by the Board to the draft meeting minutes for May 18, 2016.

A motion to accept the Minutes of the May 18, 2016 meeting as submitted was made by Mr. White, seconded by Ms. Gould and approved unanimously.

Upcoming meeting:

June 15, 2016: continued public hearing for Timber Crest Estates.

July 6, 2016: Application received for two variances from Applicant on 51 Alder Road. Mr. White motioned to schedule the hearing for 7:45 PM on July 6, 2016, Chairman Cole seconded and it was approved unanimously.

Correspondence:

None.

Public Hearings:

7:45 P.M. – (Continued from May 4, 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: Stormwater Management, Wetlands]

Chairman Cole explained that the focus for the hearing would be Stormwater Management and Wetlands. Chairman Cole surveyed each Board Member for other topics that they label as critical to address during future hearings. The Board’s areas of concern are as follows:

- Mr. White: traffic and pedestrian egress, sidewalks and curbing, Cape Cod style berms, and safety of children.
- Mr. Stumpf: creating visual barrier, emergency entrance to the south, public egress
- Mr. Arbeene: emergency access, size of cul-de-sacs, traffic concerns in regard to a number of roadways being private ways, water and flooding (specifically Fairway Lane), information on green efficiency, Low-Impact Development techniques that will be employed
- Mr. Kennedy: general water supply and shortage of water in Medway, wetlands and vernal pools, connection to a private roadway and egress
- Ms. Gould: length of roads (2500 linear feet when the maximum allowed in town is 600 feet) and cul-de-sacs themselves, lack of secondary egresses (Fern Path and Red Gate are not public), no bus turnarounds, safety issues, water
- Chairman Cole: legal concerns related to an egress onto a private way (Fern Path)

The Board is in receipt of the following documents:

- Preliminary Drainage Report from Timber Crest Estates
- Letter from town’s engineering consultant, Mr. Sean Reardon
- Traffic impact assessment study
- Public comment from Lori MacKay of 106 Winthrop Street

The developer, Mounir Tayara;, the developer’s 40B consultant, Paul Cusson of Delphic Associates; the developer’s engineer, Jim Pavlik of Outback Engineering; and the developer’s wetland, vernal pool and rare species consultant, Scott Goddard of Goddard Consulting, LLC were present to discuss the project with the Board.

Mr. Cusson began by stating that the developer’s team received the letter from Medway’s peer reviewer, Mr. Sean Reardon, which summarized Mr. Reardon’s review of the design documents for Timber Crest Estates with respect to stormwater management and wetlands impact and mitigation. Under Section 40B, towns are entitled to hire a peer reviewer to assist in the review of all documents submitted by the developer. While Mr. Cusson and his team appreciated the review performed by the engineer and have no major issues with his findings, they feel that the comments are geared toward a final set of plans. Mr. Cusson went on to note that the process

for a 40B project is typically for developers to submit preliminary plans to the Zoning Board and the Board reviews and makes recommendations of any necessary changes before making a final decision. Only then are a definitive set of drawings submitted. Mr. Cusson acknowledges that the plans submitted thus far are more than preliminary, but less than final, but the developer asks for some direction/decision before proceeding toward final plans.

Mr. Scott Goddard followed with a discussion of wetlands and vernal pools. A map of the area of the proposed project site was brought up on the projector for the Board members and the public to view. Mr. Goddard proceeded to identify wetland areas whose boundaries have been peer reviewed by experts and verified as accurate by the Conservation Commission. In Mr. Goddard's professional opinion, impact to areas of wetlands have been considered, but are unavoidable for this particular project. He also assured the Board that the impact to these delicate areas has been minimized as much as possible in the plans submitted by the developer. In response to the comments made in the letter by Mr. Reardon upon review of the plans, Mr. Goddard affirmed the following:

- Massachusetts Wetlands Protection Act will ensure that all issues pertaining to wetland and vernal pools are addressed.
- An assessment of the area in regard to wildlife habitat has been conducted and samples have been collected. To date, no protected wildlife species have been observed, specifically blue-spotted salamanders. Furthermore, Mr. Goddard noted that the property is not mapped by the Endangered Species Act.
- There is a small section of wetlands that has not been delineated, but work in that area is not being proposed.
- Future permits will trigger a review from Army Corps of Engineers.
- Vernal pools, which are interior to wetlands and serve as wildlife breeding grounds, have been identified and will be reviewed.
- Erosion control will show up on definitive site plans.

Chairman Cole pointed out the difficulty in coordinating actions between the Zoning Board and the Conservation Commission in regard to this project. Mr. Cusson stated that the developer and his team cannot approach the Conservation Commission without an approved plan. He noted that once final approval is issued by ZBA, if a change is required by the Conservation Commission, the developer will need to return to ZBA in order to determine if the necessary change is substantial or insubstantial. A substantial change requires a separate hearing to be scheduled.

Mr. Glenn interjected and stated that the Board should ask for whatever information it needs from the developer in order to make an informed decision with a certain level of comfort. Basically, the Board needs to feel that the developer can accomplish what they are stating they can do. Our peer reviewer can provide further assistance to the Board as he has an understanding of what Conservation Commission will typically approve.

Chairman Cole firmly noted that wetlands and stormwater issues are unusually sensitive with respect to this project and the Board wants to feel confident about its decision.

Mr. Kennedy asked for clarification on the wildlife analysis that was conducted of the upland areas. Mr. Goddard stated that wetland laws extend to habitat in wetlands, not upper areas, and that detailed review of upland habitat is not typical of DEP wildlife evaluation.

Mr. Reardon pointed out that there should be no distinction between vernal pools and upland areas. Vernal pools are a breeding habitat, but the animals that use these vernal pools live in the upland areas. It therefore doesn't make much sense to protect the vernal pools without consideration for the upland area within 700 feet. The plot of land for the proposed project consists of long strings of wetlands, and most of it will be disturbed.

Mr. Cusson informed the Board that upland area considerations will be required by the Army Corps of Engineers review.

Mr. Reardon stated that it is a conservation commission review process.

Mr. Glenn asked what would happen if, upon review, key infrastructures (i.e. houses) were not able to be built. Mr. Goddard responded that he feels confident that all necessary measures have been taken to avoid that scenario. Mr. Cusson reiterated that if that were the case the change to the plans would need to be assessed by the ZBA and labeled as significant or insignificant and such designation would determine further actions.

Mr. Kennedy asked if a report had been generated summarizing the wildlife survey observations. Mr. Goddard stated that data has been generated.

Mr. White asked for further evidence to support Mr. Goddard's earlier claim which stated that blue-spotted salamanders are not present on the proposed building site. Mr. Goddard explained that the presence or absence of rare species review changes and that this site is not mapped for rare species. Had a rare species ever been spotted on the parcel of land, said finding would have been reported to MA Fisheries and Wildlife, and as a result, the surrounding areas would have been mapped for that particular habitat for that species. Mr. Goddard and his team have researched egg masses and confirm with a level of definitive confidence that no blue-spotted salamanders have been seen. Mr. White asked if all vernal pools had been surveyed and Mr. Goddard assured that they had.

Mr. Cusson added that while the plans for the proposed development are in the preliminary stage, the work associated with Conservation Commission is not preliminary and has been thoroughly executed.

Mr. Cusson suggested that the hearing proceed to a presentation on stormwater by Mr. Jim Pavlik and made clear that, by law, developers are not allowed to worsen the current situation as it relates to stormwater management.

Mr. Pavlik explained that generally drainage analysis consists of looking at land use (paved roads, lawn areas, wooded areas), topography and run off flow water patterns across site. Numbers are entered into a drainage program and a number in regard to runoff rate is generated.

Mr. Pavlik indicated that existing conditions have been assessed and 5 drainage areas have been identified with respect to topography and drainage patterns.

A resident of 13 Fairway Lane commented that drainage had been installed on their property. Chairman Cole reminded the public to hold any questions or comments until later in the hearing.

Mr. Pavlik continued addressing the Board by explaining that they are primarily looking at where specific areas are draining to. For developed conditions, changes in ground cover due to scale of plan are assessed. The proposed plan includes a number of drainage basins, infiltration or detention basins, to slow down the runoff, and a series of treatment processes. An infiltration basin is essentially a shallow artificial pond that is designed to infiltrate stormwater through permeable soils into the groundwater, while a detention basin is an excavated area designed to hold water for a period of time. The different types of basins are spread out across the site based on topography. Mr. Pavlik also noted that treatment and control of runoff is a DEP mandate, therefore drainage features must be used. He further indicated that additional features, such as rain gardens, will be incorporated into the final design.

Mr. Reardon expressed that in his opinion, some fundamental information is missing from the plan that can greatly impact the design. For example, no test pits have been done and ground water levels haven't been determined. Additionally, Mr. Reardon explained that the proposed site does not act as a typical site in terms of runoff patterns. Water typically collects in wetlands and pours out into different areas and in these natural environments, water moves freely from one wetland to another. The crossings that are proposed in the plan will restrict that movement resulting in a situation where water is pushed from one location to the next. He also asked that the reports provided by Timber Crest Estates employ some consistency in the way things are labeled.

Chairman Cole also asked for labeling discrepancies to be addressed.

Mr. Glenn noted that the public hasn't seen the memo provided by Tetra Tech, Inc. and assured residents that more information is being requested by the Board.

Mr. Pavlik concluded by explaining that a rain garden is a relatively flat area containing stones and flowers, that allows water to go in to slowly drain. They are designed to keep water in place and not have it runoff into an abutting site.

Mr. Reardon commented that information about the basins is critical to understanding how this works in actuality.

Mr. Kennedy asked if any of the proposed drainage systems are out of the ordinary and Mr. Reardon stated that they are all standard, but the design of each system has a definite impact.

Mr. Glenn asked who reviews these subject matters after the Zoning Board and Mr. Reardon noted that it would be the responsibility of the Conservation Commission.

Chairman Cole asked for clarification related to the list of waivers requested by the developer. He is curious as to how conforming to local conservation wetland regulations creates a greater burden for the developer. Mr. Pavlik said that it is in regard to disturbance setbacks and crossings.

Mr. Glenn suggested that the developer inform the Board of circumstances when a specific waiver will be requested and why.

Mr. White went on to add that he would prefer to look at those waivers as they come along and not waive them all at once.

Ms. Mercandetti instructed that members of the public who wished to make a comment should go to the microphone and state their name and address before beginning.

Chairman Cole opened up the floor to any members of the public who wished to comment or pose questions on the proposal as it relates to the material being covered in the meeting, i.e. stormwater management and wetlands.

Public comments:

Lori Mackay of 106 Winthrop St asked that her property be pointed out on the map and for clarification on the location of any vernal pools in close proximity to her property. Mr. Goddard noted that while there are vernal pools near her property, none are located immediately behind it. Ms. Mackay also expressed some concern in regard to the rain gardens on the right and backside of her property that are shown on the plan. Lastly, the resident noted that the increase in traffic around her as a result of the proposed project is alarming to her and asked what constitutes a significant change to the plan and will she be notified if such change is required. Ms. Gould assured Ms. Mackay, that, as an abutter, she would be notified of the hearing for a significant change should one be required. Mr. Reardon also confirmed that no changes can take place without an additional hearing. Furthermore, Mr. Cusson and Chairman Cole reiterated the process for significant changes to a proposed plan, which includes a hearing before the Zoning Board.

Cindy Maliniak of 14 Fairway Lane asked how many more wetlands are being altered exceeding the 5000 feet². Mr. Pavlik informed her that 12,000 feet² would be altered. Ms. Maliniak asked to know how successful the process of recreating wetlands is. Mr. Goddard explained that if one foot² of wetland is filled, one foot² of wetland is required to be recreated. Monitors and annual reports are involved to prove success of the recreated environment and this process has been shown to be highly successful. Ms. Maliniak stated that in her understanding, state

regulations prohibit disturbing any land within 100 feet of vernal pools. Mr. Goddard noted that those regulations apply to vernal pools that have been certified and that adverse impact to wildlife has been shown. Regulators also want to see that the developer has made every possible effort to avoid such areas or mitigate. Mr. Reardon pointed out that a ratio of 2:1 was shown in the plans in regard to replicating disturbed wetlands. Mr. Goddard said that the minimum requirement is 1:1, a discussion with the Conservation Commission will take place and they will most likely settle somewhere in the middle. Mr. Kennedy asked who is financially responsible for the ongoing monitoring of the recreated wetlands that is required. Mr. Goddard stated that it is the developer's responsibility and noted that the cost for process of recreating and monitoring wetlands lies somewhere in the vicinity of \$25,000-\$40,000.

David Dahlheimer of 21 Fairway Lane noted that he recalls vernal pools around his property being surveyed during the summer. Mr. Goddard assured him that they were also monitored this spring and that they accounted for seasonal changes. Mr. Dahlheimer expressed further concern in regard to wetland boundaries that end in close proximity to where his driveway is located. Mr. Goddard stated that no wetlands are present directly on that access location and due diligence has been done to ensure that wetland stops where it is denoted. Mr. Tayara also assured Mr. Dahlheimer that the DEP came out to confirm the boundaries of the wetland area in question, the delineations were peer reviewed and two botanists also looked at the boundaries. Mr. Dahlheimer stated that he is requesting information about a different area. He is also wondering how large construction equipment will be brought in. Mr. Tayara said that there is enough room to work with and that a staging area will be prepared.

Ellen Schaefer of 13 Fairway Lane stated that after living in her house for 7 years so much runoff water gathered in her backyard that it was like a small lake. The home owners had their land drained and excavated at an expense of \$4500. Ms. Schaefer finds it highly unlikely that all the houses proposed to be built directly behind her would adversely affect the water situation on her property. She additionally noted that all of the houses in her neighborhood have septic. Mr. Tayara reiterated, that by law, a developer is not allowed to increase runoff or make conditions any worse. He explained that calculations are done by engineers to ensure this happens and noted that the situation is typically improved for abutters since the water is being controlled within the development. Mr. Cusson went on to say that there are standard practices for this type of process and that there are rigorous DEP regulations that must be met, but offered to take a closer look at this property. Mr. Glenn also noted the issue and requested that Mr. Reardon peer review the calculations generated by the developer's engineers. To conclude, Ms. Schaefer asked what happens when best practices don't work. Mr. Reardon added to her concerns by stating that roof runoff doesn't always make it to rain gardens and does sometimes end up in abutters' backyards.

Mike Zimmerman of 39 Ellis Street asked about a rain garden being placed near 106 Winthrop St and wondered if there was a setback in regard to rain gardens. Mr. Cusson replied that there

isn't; setbacks are only for buildings or structures. Mr. Tayara explained that a rain garden may be muddy or wet, but it will not contain feet of standing water.

Mr. White stated that although we are at a preliminary stage, any walkways within the development will impact and change the water flow features. He noted that details of what they may look like in the end are needed as it will affect the focus areas of this meeting. Mr. Tayara informed the Board that one side of sidewalks will exist throughout the development. The developer is asking for a waiver for the other side. The sidewalks currently being proposed are 22 feet, paved.

Ms. Mercandetti noted that additional information and clarification is needed.

Mr. Tayara asked Ms. Mercandetti for assistance as he hasn't received a response or input from the Charles River Pollution Control District.

Chairman Cole requested that Mr. Reardon, Mr. Goddard and Mr. Pavlik meet offline to reduce the number of outstanding issues before the next Board meeting.

Mr. Cusson stated that he would appreciate being able to start workshops with smaller groups. This request received some opposition from the public with the concern that these workshops would violate open meeting law. Mr. Cusson noted that they would be public.

Mr. Glenn said that the regulations do support smaller workshops along the process and encouraged the Board to follow up with Town Counsel. It was noted however that meetings between staff, consultants and the applicant are appropriate.

Upcoming Meetings:

June 15, 2016: continued public hearing for Timber Crest Estates with the focus areas for discussion to be on traffic, safety, and access.

Adjournment

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

Respectfully submitted,

Filipa LeClair
Meeting Recording Secretary