



Town of Medway
ZONING BOARD OF APPEALS
155 Village Street, Medway MA 02053
(508) 321-4915

Rori Stumpf, Chair
Brian White, Vice Chair
Gibb Phenegar, Clerk
Christina Oster, Member
Tom Emero, Member
Carol Gould, Associate Member
Brian Cowan, Associate Member

Zoning Board of Appeals Meeting
Wednesday, January 15, 2020 at 7:30 p.m.
Sanford Hall
155 Village Street Medway, MA 02053
Meeting Minutes

Present: Rori Stumpf, Chairman; Brian White, Vice Chair; Gibb Phenegar, Clerk; Tom Emero, Member; Brian Cowan, Associate Member

Also Present: Barbara Saint Andre, Director, Community and Economic Development
Stefany Ohannesian, Administrative Assistant, Community and Economic Development

Chairman Rori Stumpf called the meeting to order at 7:30 p.m. and read that the meeting was being broadcast on Medway Cable Access.

New Business

Timber Crest Estates and Kingsbury Village – Review and potential signing of Subdivision covenant, final plans and mylar plans; discussion of construction schedule, phasing and construction observation estimate.

Mounir Tayara, the Applicant and developer, was present and began to discuss the draft covenant for the development. He then mentioned the construction observation estimate from Tetra Tech Inc., which is proposed to start with \$15,000 and not to go under \$5,000. Whenever the balance is at or below \$5,000 it will be replenished up to \$15,000. Mr. Tayara stated the intent is to start on Phase 1W as soon as possible. They are working with the Conservation Commission regarding the conservation restriction. He is currently in the process of finding a site contractor, they also will have pre-construction meetings with various town staff. Mr. Stumpf inquired about the Holliston Street construction, Mr. Tayara stated they can only have two phases open at once for the project. They would like to start on the west side first and go from there. Mr. Tayara stated he hasn't decided on when they will start on the east side of the project, which is dependent on market conditions. Ms. Saint Andre inquired about the approval from the subsidizing agency, Mr. Tayara stated he is in the process of finalizing the approval and Ms. Saint Andre asked for the proof of final approval. Mr. Tayara stated that they do have financing in place.

Cindy Maliniak of 14 Fairway Lane inquired about what "Kingsbury Village" is. Mr. Tayara explained per the fire chief they were asked to differentiate the two developments for

emergency response purposes. She inquired about the Holliston Street construction, Mr. Tayara stated there will be about 1 – 2 years before Kingsbury Village will start to be constructed. Ms. Maliniak then inquired about how long the project is projected to be constructed, Mr. Tayara explained there is a maximum of 6 years to complete each phase and a total of 18 years to complete the entire project. There was a discussion about the site and what will happen if the developer isn't able to finish it or the developer walks away. Mr. Tayara gave an explanation about subcontracting companies to do the work, he also explained there is an Order of Conditions that has conditions about how they can leave the site at any given time.

Kathy Campbell of 8 Fairway Lane asked about stock piles and tree trunks and what will be done about the tree trunks on the property. Mr. Tayara explained how they are going to manage stump removal, they will either be crushed on site or removed from the site. They will use the stumps and recycle the mulch to use as erosion control, etc.

Move that the Board determines that the form of the covenant as presented is sufficient to secure the construction of ways and installation of municipal services in the Timber Crest Estates and Kingsbury Village Subdivision, and to accept the covenant from Timber Crest, LLC under General Laws chapter 41, section 81U, and General Laws chapter 40B, Sections 20-23, made by Brian White, seconded by Gibb Phenegar, passed with a vote of 5-0.

Move that the Board approve the proposed construction observation estimate of \$15,000 from Tetra Tech for Timber Crest Estates and Kingsbury Village made by Brian White, seconded by Gibb Phenegar, passed with a vote of 5-0.

Public Hearings

14-16R Franklin Street Modification Request – The application is for a modification of the approved special permit and variance for a two family dwelling under Section 5.4 Table 1.C of the Zoning Bylaw, and Section 6.1 of the Zoning Bylaw, to change the location of the dwelling, modify the building plans, and allow tree removal within setbacks.

The Applicant's engineer Dan Merrikin of Legacy Engineering was present and stated the order of which he'd like to present to the Board. Mr. Stumpf stated he'd like to start by discussing the tree removal violation on the property. Mr. Stumpf explained that the Board wanted a buffer zone and that is why the condition was imposed requiring tree preservation in the setbacks of the property. Mr. Merrikin explained the cease and desist order from the Building Commissioner which displayed 6 trees that were removed that the Building Commissioner believed were in direct violation of the condition, with photographs. There is a discussion around whether there were 6 or 3 trees that were removed in violation of the ZBA decision.

Mr. Merrikin explained that the applicant acknowledges that the tree removal was wrong and intends to have an extensive landscaping plan to present that is forthcoming. He also explained that the applicant spoke with her direct abutters, and since the abutters did not have any issue with the trees being removed, she thought it would be acceptable to remove the trees within

the setback although it directly violated a condition in the decision.

Mr. Emero inquired about where the recommendation for the condition prohibiting removal of the trees 18 inches in diameter or greater within the setback came from. The recommendation came from the Planning and Economic Development Board. Mr. Merrikin explained the current setback lines and states there is opportunity to do some replanting. The applicant will need to go before the Conservation Commission for work in the buffer zone to wetlands that are on the adjacent property, as well as filing a land disturbance permit.

Andy Rodenhiser, chairman of the Medway Planning and Economic Development Board explained that there are rules and regulations for subdivisions and site plan that have tree requirements. He also explained that typically a site plan is provided with an inventory of trees on the property prior to a decision.

Mr. Phenegar inquired about why work continued when there was an active Cease and Desist in place from the Building Department. Ms. Tatevosian, the applicant, made a statement that she did not receive the cease and desist via email or by mail.

Mr. Merrikin then presented the revised architectural plans and explained the differences from what was previously approved by the Board. There will be a 48 square foot increase to the front of the home with an office on the first floor and bedroom on the second floor. There will also no longer be a deck off the back of the home, which was on the previous plan. The applicant would like the foot print and elevation of the building to replace the total living space condition on the previously approved decision. Mr. Merrikin also stated that there will be stormwater management on the property, which is on the plan newly submitted to the Board. Franklin Street is a scenic road and they would like to preserve a small rock wall to the front of the property. Mr. Merrikin explained that he will need to go to Conservation Commission regarding the wetlands and stormwater management, and that they may need to go to the Planning and Economic Development Board in regards to the stone wall.

Mr. Merrikin asked for a continuation to February 19, 2020, due to not wanting the Board to approve a plan that may change based on meetings with other Town boards and commissions.

Motion to continue the public hearing for 14 – 16R Franklin Street to February 19, 2020 at 7:30 pm at Sanford Hall made by Brian White, seconded by Gibb Phenegar, passed with a vote of 5-0.

Other Business

- Discuss revised condition for potential use on future decisions

Mr. Stumpf and board members discussed the potential condition and stated the Board would like to start using this draft condition in future decisions.

- Discuss fee schedule – specifically modification section

The Board discussed the current application fees and fees charged by surrounding towns. Other towns charge essentially the same amount for each application category. Mr. White explained how the fees were arrived at with the last update and how they reached the numbers, i.e. staff time charts that were created and analyzed and the value of the permit. Ms. Ohannesian inquired about their definition of a minor and major modification as there is nothing to explain the difference. Mr. Stumpf asked if the time spent on special permits versus variances is different. Ms. Ohannesian stated that most of the time both types of applications take the same amount of time. Ms. Saint Andre stated that the idea of the fees is to cover the staff time, postage, etc. that goes into an application. She stated that the current fee of \$50.00 for a modification is not sufficient to cover the costs to the Town.

Mr. Phenegar stated that most abutting towns have the same fee all the way across, recommending that the Board do the same. There is further discussion around the difference between a minor and major modification, as well as what a set amount of new fees could be if they were to change the fees. Mr. Emero raised a concern that small modifications, such as adding two feet as was proposed in the hearing earlier this evening, do not warrant being charged \$185.00 for something so minor. There was a discussion around certain situations and where it can be justified to charge \$185.00. It was pointed out that truly insignificant changes are often handled as field changes to be classified as such by the Building Department, and there are few requests for modifications to the Board. The Board collectively decided to change the fee for special permits, variances, appeals and modifications to a set amount of \$185.00.

Move that the fee amount be changed to \$185.00 for Special Permits, Variances, Appeals and Modifications made by Brian White, seconded by Gibb Phenegar, passed with a vote of 5-0

- Discuss draft 2019 Zoning Board Annual Report

Mr. Stumpf stated the annual report looks great and would accept it with no modification. There was a question on dates of appointment for some new members which will be verified by Ms. Ohannesian. The annual report will be discussed at the next meeting.

- Discuss potential zoning amendments for 2020 Annual Town Meeting

Ms. Saint Andre stated there was a zoning workshop that took place. There is language being worked on and the Board will have a chance to review it.

Approval of Minutes

- December 18, 2019

Motion to approve the minutes for December 18, 2019 as presented made by Brian White, seconded by Gibb Phenegar, passed with a vote of 5-0.

Upcoming Meetings

- February 5, 2020 – 4 Quail Drive AFDU Special Permit Application
79 Lovering Street Modification Request

Ms. Saint Andre discussed the Glen Brook Way project and its need to request a modification to specify in the decision to differentiate Phase 1 and Phase 2. They are hoping to file this modification request for the February 5, 2020 board meeting.

- February 19, 2020 – 14-16R Franklin St Modification Continuation

Adjournment

Motion to adjourn the meeting at 9:01 p.m. made by Brian White, seconded by Gibb Phenegar, passed with a vote of 5-0.

Respectfully submitted,

Stefany Ohannesian
Administrative Assistant

Edited by Barbara J. Saint Andre, Director, Community and Economic Development