

**Town of Medway**  
**Zoning Board of Appeals Meeting**  
**School Committee Presentation Room (Door #7), Medway Middle School**  
**45 Holliston St, Medway MA**

**MINUTES OF MEETING**

**July 20, 2016**

**Present:** Chairman David Cole; Clerk Carol Gould; Committee Members Eric Arbeene and Brian White.

**Also Present:** Stephanie Mercandetti Director, Community and Economic Development; Mackenzie Leahy, Administrative Assistant, Community and Economic Development.

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.

**Reorganization of the Board:**

***Mr. White moved to nominate Mr. David Cole for Chairman of the Board. The motion was seconded by Mr. Arbeene and approved unanimously.***

Chairman Cole informed the Board that he expects to retire next year and move out of Medway shortly thereafter and will not seek to be reappointed once his current term comes to an end.

***Mr. White moved to nominate Ms. Carol Gould for Clerk. The motion was seconded by Chairman Cole and approved unanimously.***

**Other business:**

Approval of payment for Tetra Tech Peer Review Services.

***Chairman Cole moved to approve the invoice from Tetra Tech in the amount of \$13,108.73. The motion was seconded by Mr. White and approved unanimously.***

**Correspondence:**

None.

**Approval of minutes:**

Draft minutes from the July 6, 2016 meeting have not yet been submitted for review.

**Upcoming meeting:**

August 3, 2016: continued public hearing for Timber Crest Estates

**Public Hearings:**

**7:45 P.M. – (Continuance requested by the Applicant’s representative to continue the hearing without testimony to August 3, 2016 at 7:45 PM). The Applicant, Timber Crest LLC, seeks a Comprehensive Permit under MGL c. 40B, Sections 20-23 as amended, to allow construction of a 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.**

The Board is in receipt of an email from the Applicant’s representative requesting a continuance of the hearing to the first meeting of the Board during the month of August. The request was made to allow the applicant time to address a number of issues that were raised by the Board as well as the public during previous hearings.

***Chairman Cole moved to grant continuance without testimony until August 3, 2016 at 7:45PM. The motion was seconded by Mr. Arbeene approved unanimously.***

A member of the public asked the Board how long the applicant has to move the hearings for Timber Crest Estates. Chairman Cole noted that the Board granted the applicant this two week extension as it will be more beneficial to continue the hearing once the applicant and his team have had time to gather the information that has been requested, but assured the public that the Board would not allow for continued delays. Ms. Mercandetti further explained that all of the topics for discussion that were on the agenda for tonight’s meeting will be revisited at the meeting in August.

Chairman Cole asked for an update on his request to have Town Counsel provide guidance to the Board regarding legal issues surrounding access to public ways. Ms. Mercandetti stated that Town Counsel has been given the information provided by the attorney of Mr. and Mrs. O’Neil of 4 Fern Path, but noted that the applicant’s attorney has not provided any additional information in regard to this matter. Chairman Cole noted that this is an issue that has the potential to present a major roadblock in the project and it is something that needs to be addressed sooner than later. He requested that Ms. Mercandetti politely advise the applicant’s counsel to supply additional information as soon as possible.

A member of the public asked for clarification of the process in the event that significant changes to the plan are necessary. Chairman Cole explained that it is expected that plans for comprehensive permit projects such as this one, will undergo changes throughout the hearing process. He further noted that the Board is aware of the concerns of residents and wants to address necessary changes as early in the process as possible.

**8:00 P.M.- (Continued from July 6, 2016) The Applicant, Philip Anza of Alder Street Realty LLC, seeks a variance from Section 5.4 of the Zoning Bylaw to grant the use of an automotive sales and services business in the Industrial III Zoning district where prohibited; and also seeks a variance from Section 6.1 of the Zoning Bylaw for the reduction in the required front yard setback from 30 ft. to 24.9 ft. for the construction of the proposed building.**

The Board is in receipt of the following documents:

- A Special Permit Application stamped by the Town Clerk on May 24, 2016
- Site plan
- Copy of Certified Abutters List
- Letter from Grady Consultants, LLC
- An email from Principal Assessor, Donna Greenwood, received July 1, 2016 indicating that the record has been changed on parcel 63-001-0001 formerly known as 51 Alder St. to 50 Alder St.
- Letter from the applicant's representative in response to comments from the Board during the July 6, 2016 meeting

The board moved to hear the application. The applicant and his representative, Mr. Paul Seaberg, P.E. of Grady Consulting, LLC were present to discuss the request with the Board.

Chairman Cole noted that the hearing is continuation, which means that the Board's final decision will be based on the information presented at both hearings.

Mr. Seaberg began by responding to some of the issues that were raised by Board members during the last hearing. Specifically, he addressed the circumstances of the subject property relating to shape, topography, or soil conditions that do not generally affect other land in the zoning district. According to Mr. Grady, other land in the Industrial III zoning district and abutting lots consist of manufacturing and distribution facilities. The existing lots range in size from 6.5-24 acres. The existing building footprints for these industrial uses range from 5,200 to 165,132 sq. ft. and the average size is approximately 47,000 sq. ft. The proposed site consists of 44,989 sq. ft. and only 18,774 sq. ft. of upland. Due to wetlands in the rear of the property, the maximum buildable area is approximately 6,070 sq. ft. without parking. The proposed site and existing lot, because of its shape and soil conditions, is not an appropriate or valued lot for an industrial use. The shape and soil conditions form a lot that is inadequate in size for an industrial use which is intended for assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or minerals as defined in the Zoning Bylaw. It has been demonstrated that the proposed site is suitable for a commercial use of an automotive service and sales business and that an appropriate size facility can be constructed on the lot.

Chairman Cole asked whether the applicant owns any adjoining parcels of land. Mr. Anza responded that he owns the parcel behind the property (the abutting parcel is located in Milford) and he intends to combine the parcels for a total of about 1 acre.

Mr. Anza noted that he has been doing business in the current location for about 12 years and that the prior owner operated a similar business on that lot. It is a small business which the applicant does not foresee expanding by much. Chairman Cole noted that this application is unique in the fact that it concerns an already operating pre-existing non-conforming business that the applicant simply wants to relocate to a different lot within the same industrial park. The Chairman asked for the dimensions of the current business and Mr. Anza said it was roughly 20x48.

Mr. Anza noted that he has spoken to all three abutting neighbors (all commercial) and none are opposed to his request. Furthermore, he stated that the nearest residential neighbor is approximately ½ mile away.

Chairman Cole and other members of the Board had no further questions. No members of the public were present to comment or ask questions in regard to this matter.

Chairman Cole informed the applicant that the Board would not be able to deliberate on this hearing tonight as the same four members of the Board were not present that were present at the July 6, 2016 meeting. Under the Mullin Rule, one of the two Board members will have the opportunity to participate and vote in deliberations related to this variance request. The Mullin Rule allows members of the Board to vote after missing one public hearing. The Board member must certify in writing his/her review of evidence of the missed session and the certification must be filed with the Town Clerk.

***A motion to close the hearing was made by Mr. White, seconded by Mr. Arbeene and approved unanimously. The Board will deliberate at the August 3, 2016 meeting.***

Ms. Mercandetti noted that the address for the property has been changed to 50 Alder Street as result of comments received from the fire chief and town assessor.

**Deliberations:**

**Deliberation for Paul LaPerriere of Medway Realty, LLC, 98, 108, and 114 Main Street.**

- Chairman Cole noted that the Board would not be able to deliberate on this hearing tonight as the same four members of the Board were not present that were present at the July 6, 2016 meeting. Please see reference to Mullin Rule above.
- The Board will deliberate at the August 3, 2016 meeting.

**Adjournment**

***A motion to adjourn was made by Mr. White, seconded by Ms. Gould and passed unanimously. The Board adjourned at 8:18 p.m.***

Respectfully submitted,

Filipa LeClair  
Meeting Recording Secretary