

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

MINUTES OF MEETING

March 1, 2017

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

Also present: Stephanie Mercandetti, Director, Community & Economic Development; Mackenzie Leahy, Administrative Assistant, Community & Economic Development

Ezra Glenn; Consultant

Chairman Cole called the meeting to order at 7:33 PM.

Citizen Comments:

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

Any other business that may properly come before the Board:

Annual Report Submission:

Ms. Leahy stated that she had sent a draft to Ms. Mercandetti and would be sending a draft shortly for the Board's approval to be submitted as part of the Town of Medway Annual Report.

Correspondence:

No further discussion.

Approval of Minutes:

There were no minutes yet prepared for approval.

Upcoming Meetings:

No further discussion.

Public Hearings:

7:35 P.M. – The Applicant, Timber Crest LLC, seeks a Comprehensive Permit under MGL c. 40B, Sections 20-23 as amended, to allow construction of a 157 unit development to be called “Timber Crest Estates” containing 25% affordable units on 170.36 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, OR Woodland Road, and 165 Holliston Street, Medway, MA. [Focus Area: Extension of Time; Review of Revised Site Plan and Requested Waivers, Architecture/Elevations, Identify Remaining Items]

The Board is in receipt of the following materials:

- Revised Plans Comments, Board of Health, received February 27, 2017
- Public Comments, Andrew Hamilton, received February 28, 2017

Mounir Tayara, Applicant, Attorney Agostino, RIW, and Jim Pavlik, Outback Engineering were in attendance.

Ms. Mercandetti stated that there was just one more meeting before the extension would run out and suggested an extension to June 30, 2017 to address the remaining issues and then work on a decision.

Attorney Agostino stated that was acceptable, and as the applicant has said all along, as long as the Board and the applicant were working to come up with the best plan, it was appropriate to give the Board the time it needed to review the information.

Chairman Cole stated for the record that he would be out of the country from May 16 to around June 1, 2017.

Attorney Agostino asked when the current deadline was; Ms. Mercandetti stated that the current extension was until April 3, that the decision would need to be rendered within 40 days of that.

Ms. Leahy stated that an issue with closing the hearing was that if the applicant suggested conditions and then the hearing was closed, there would be no discussion on the conditions. Mr. Glenn stated that staff was assuming the Board wouldn't need the 40 days after the closing to issue a decision.

Attorney Agostino stated that he felt an extension of 30 days may be appropriate and to the extent that another extension is needed, the applicant would continue to grant requests as needed. Mr. Tayara stated that when the time comes, if another extension was needed, then the applicant would be willing to have the discussion then. Mr. Glenn reiterated that with an extension [to June 30th,] the Board would be able to have a discussion with the applicant, but without the Board would be drafting the decision as they saw fit without any further discussion. Attorney Agostino stated that his preference was to keep the hearings open.

The Board and the applicant agreed on an Extension to May 8, 2017.

Chairman Cole moved to accept the extension; seconded by Mr. White; approved unanimously.

Attorney Agostino stated that on February 1, 2017, the applicant submitted revised plans; the applicant was hoping for comments from Town Boards and Officials.

There was a working session that morning, March 1, 2017, regarding traffic safety, primarily the site entrance along Holliston St. Tetra Tech, Town Staff, and the applicant, met to discuss options to address the concerns with the intersection, specifically sight distances and the re-grading of the roadway.

The applicant would like to hear from the Board the remaining issues so that the applicant can craft conditions of approval, which incorporate [Staff, Board, and resident] comments, that would be included as part of a decision and final plan.

Chairman Cole noted that one of the issues raised was the issue of screening and the difficulty of creating satisfactory screening due to the limited spacing between Street F and the houses along Fairway Lane and asked if the applicant had made any proposals to address those concerns. Attorney Agostino stated that the Board had asked the applicant to take a hard look at any additional screening and buffering that they could provide; the applicant had met with an abutter and discussed conditions of approval to mitigate the potential impacts.

Mr. Stumpf asked if there were any agreements in place with the abutters. Mr. Tayara stated that the applicant was having conversations with some abutters; the agreements would be put into record in the decision.

Mr. Arbeene asked if there was a more appropriate way to address individual abutter concerns; Mr. Glenn stated that both individual agreements and overall buffering and screening are both appropriate. Mr. Glenn stated that individual agreements are going to create patchwork buffering. Mr. Glenn stated that if abutters believe that they have agreements with the applicant, they should also provide those comments or agreements to the Board for the record to make sure that those are included in the decision.

Mr. White stated that whatever was agreed to as a base minimum for some of the abutters should also be used as a minimum throughout the development, where it makes sense. All of the Fairway Lane abutters should be treated with parity. Mr. Tayara stated that he had no issue with what Mr. White was suggesting. Mr. Tayara stated that he did not have an issue with fencing. Mr. Tayara stated that he had reached an agreement or was planning to meet with some of the abutters. Including Ms. MacKay who had asked for a stockade fence, which the applicant stated he was more than happy to provide throughout her lot line.

Mr. Kennedy noted that it appeared that David Dahlheimer at 21 Fairway Lane was impacted the most by the development. Ms. Mercandetti stated that she was also concerned with the roadway off of Fairway Lane and the potential that it may "clip" the corner of the property at 21 Fairway Lane or the wetlands. Attorney Agostino stated that the survey concluded that those concerns were already addressed.

Chairman Cole stated that the three houses near 21 Fairway Lane [73-75] are very close to the existing abutting properties.

Mr. Arbeene stated that the main reason he brought up the issue was to reserve the Board's rights to impose conditions [regarding the buffering and screening]. Attorney Agostino stated that ultimately the Board could impose a condition or conditions if they are concerned.

Mr. Kennedy asked if David Dahlheimer wished to speak to the discussion that was had with the applicant. Mr. Dahlheimer stated that he did not wish to speak about that discussion but stated that it was easy to see his concern about the impact to his property.

Mr. Stumpf stated that even eliminating one lot would make a substantial difference.

Attorney Agostino asked that that conversation be reserved for the next hearing.

Mr. White stated that he would like to see CAD files of plans or at least PDF files in which layers could be turned on or off; Attorney Agostino stated that could be included as part of the final plans. Ms. Leahy stated that to that point, she believed that what Mr. White was referring to was the letter from Dave D'Amico [from DPS] on May 2, 2016 where he stated that DPS now requires that everything [all plans] be submitted in GIS format to MassGIS standards. Mr. Pavlik stated that it was atypical to submit a CAD file and information prior to final plans.

Mr. Arbeene stated that he was still concerned about the Eastern side of the development and the length of Road F without a second access. Attorney Agostino stated that the applicant was waiting for the Fire Chief to provide an additional comment letter; Ms. Mercandetti stated that the Fire Chief would be providing additional comments regarding what the applicant had proposed and whether or not what was proposed would be acceptable.

Mr. Arbeene asked if there would be wetlands replications; Mr. Tayara stated that the plan will go to the Army Corp of Engineers and DEP, DEP typically looks for 1-to-1 replication, onsite.

Mr. Arbeene asked if there would be parks [recreation] onsite. Mr. Tayara agreed that the development needed something, but didn't feel that a tot-lot would be appropriate to the targeted demographics. Mr. Tayara stated that the applicant agreed that some community meeting place with landscaping, benches, and a gazebo might be appropriate. Mr. Tayara stated that playgrounds would be a liability, and the homeowner's association would be taking that on. Mr. White stated that there should be some sort of fair housing standards that with the smaller backyards and overall amount of wetlands, all ages should have some place to do something, parks or passive recreation that can be enjoyed within the development. Attorney Agostino stated that there may be families in the development, but to install a playground would not address the targeted housing market. Mr. White stated that in his opinion would be to burn a house lot for recreation or reconfigure the layout of the plan to include a space.

Mr. Glenn stated that the Board had pushed including a bus lot and the applicant added it, the Board could do the same for a recreational lot.

Mr. Arbeene asked about the sewer tie-in for the residents on Fairway Lane; Mr. Tayara stated that adding an additional tie-in for the residents at Fairway Lane was a simple process. Mr. Arbeene asked if other residents [who hadn't signed an agreement] would have the opportunity to tie-in; Mr. Tayara stated that they could and that was part of the conversation that the applicant was looking to have [with residents].

Mr. Arbeene asked if someone who buys the home would need to meet the requirements of the Zoning Bylaw. Ms. Mercandetti stated that it would be a determination of the Building Inspector. Attorney Agostino stated that in the past, he has [on other projects] created a homeowner's association that would state what was or wasn't allowed within the confines of a property, or the parameters of a homeowner's association. Mr. Kennedy asked when the homeowner's association covenant would be submitted; Attorney Agostino stated that it would be submitted prior to applying for a building permit, which would be included as a condition.

Mr. White stated that if decks or porches are "add-on" options for buyers, that those should also be included on the plans so that the Board didn't need to revisit that later; Mr. Tayara stated that farmers' porches are an add-on option, but the decks are included on all of the plans. Mr. Tayara stated that he saw no issue as long as the construction was within the building setbacks [as would be conditioned] and the building envelop.

Ms. Mercandetti noted that there is no tabulation on the revised set of plans, as was originally provided in the site eligibility application. Mr. Glenn stated that the location of the affordable units would be up to the subsidizing agency.

Mr. Arbeene asked if the status of the stream was addressed; Attorney Agostino stated that the applicant was proposing [as a condition] that the status of the stream would determine the development of the lots surrounding the stream.

Ms. Leahy asked for clarification, for the Board, of what the applicant means when they say they “will be treating all vernal pools, certified or potential, the ‘same’” and also if the applicant has any information on what the fill sources would be, whether that will be addressed during the Conservation Commission process, and if so, that the applicant explain that to the Board. Mr. Pavlik stated that generally the fill will be clean fill from local gravel providers. Mr. Pavlik stated that there was a distinction between local, state, and federal regulations regarding treatment of vernal pools, the applicant was willing to comply with the state regulations of a 100 foot no touch when in the wetlands, but not including upland areas as would be included under local regulations. Attorney Agostino stated that the applicant has gone to “great lengths” to preserve as much of the vernal pool buffers under local regulations as possible. Mr. Tayara stated that during the wetland and vernal pool working session that some of the lots were proposed to be removed to address some of the concerns under the local bylaws.

Mr. Glenn asked what the road entry off of Fairway Lane would look and “feel” like. Mr. White asked if the sidewalk would be on the east or west side of the entry; Mr. Pavlik stated that it would be on the west side. Mr. White asked what would become of the driveway at 21 Fairway Lane; Mr. Tayara stated that the home currently had an easement for their driveway and that the home would and driveway would be accessed from the roadway.

Ms. Gould asked if the Board had received any new information from DPS, she is still concerned about the water and sewer usage. Ms. Mercandetti stated that the Board was awaiting new comments from Town Board and Departments regarding the revised plans, but that the plans now should the water and sewer demands “basically cut in half” from what was originally proposed.

Mr. Kennedy asked if there was the availability to have the applicant pay into a fund for water use and demand; Attorney Agostino noted that it had been discussed but it was thrown “off-rail” due to Tom Holder [former DPS Director] taking a position elsewhere, but that the applicant was expecting more feedback on that matter.

Mr. Arbeene asked about whether or not the affordable units would have “deed riders” so that the affordable units were not being rented out after purchase, as that there was a previous concern that may happen. Attorney Agostino stated that affordable units have deed riders prescribed by MassHousing, which is a standard form that they require.

Mr. Arbeene asked about the bonds and what would be included in that; Ms. Mercandetti stated that the Board had touched on that but it would be addressed in a future hearing.

Mr. White asked if the auto turn calculations were going to be addressed; Ms. Mercandetti stated that Traffic discussion would also be addressed again at a future hearing, as the applicant, Staff, and Peer Review had just met that morning to discuss outstanding traffic concerns at a working session.

Mr. Kennedy asked if the landscaping issue had been addressed; Mr. Tayara stated that they would condition, as part of the decision, the details for landscaping. Mr. Kennedy stated that he didn’t realize that it would be a condition rather than brought into the hearing; Attorney Agostino stated that they had proposed the condition of having a landscaping plan by a certified landscape architect completed as part of the final plans.

Mr. Kennedy stated that he was still concerned with [the impact to] David Dahlheimer and David Johnson's homes [21 Fairway Lane and 163 Holliston St] and encouraged that the applicant continue to reach out to those residents.

Ms. Leahy stated that she was also concerned, as was Bridget Graziano, Conservation Agent, with the limit of work versus the proposed 15 no-touch buffer for the wetlands and would like to see further justification of the need for the limit of work or alterations to go into or beyond the proposed 15 foot no touch.

Ms. Leahy also noted that while the Board was waiting for comment letters from other Town Boards and Departments, hopefully some of those comments would address the outstanding issues and concerns and that they would also touch on whether or not they found the proposed waivers acceptable or not acceptable; the Fire Chief would be commenting on those auto turn calculations.

Ms. Leahy noted that waivers were a topic on the agenda and felt that it might be appropriate for the Board to have some of that conversation at that point. Chairman Cole asked if it would be more appropriate to identify the outstanding issues; Ms. Mercandetti stated that those were being addressed already that evening and that staff was keeping track of what the Board still felt was outstanding.

Attorney Agostino stated that rather "dive into" the extensive number of waiver requests, to discuss what is shown on the plans; essentially the waivers are requested to build in accordance with the plans. Mr. Glenn stated that there are the waivers to build according to the plans and if the Board is happy with the plans, then they can grant the waivers, but then there are waivers which are not shown on the plans such as the requirement for pumping sewage or retaining walls, which are flagged in the waiver requests and those are the ones that officials are looking at, and there are relatively few other requests that deviate from the subdivision standards.

Attorney Agostino stated that typically the developer will fund an account for a construction monitor and that to the extent that there is any disagreement on whether or not there is a deviation from the plans and decision, they would come back to the Board for review.

Ms. Mercandetti suggested that if the Board didn't want to go through the waivers that evening that staff could work with other Town Boards and Departments to see which waivers they suggest to keep and which waivers need more of a discussion.

Public Comment

None.

Attorney Agostino stated that traffic was to be revisited [at the next hearing] primarily due to the outstanding engineering information and review.

Chairman Cole moved continue the hearing for Timber Crest LLC to March 15, 2017 at 7:35 PM; seconded by Mr. White; approved unanimously.

Adjournment

A motion to adjourn was made by Mr. White, seconded by Mr. Kennedy and approved unanimously. The Board adjourned at 9:34 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development