



March 8, 2022

**Medway Planning & Economic Development Board
Meeting**

**Release of Performance Security for
Charles River Village**

- Email dated 2-9-22 from attorney Glenn Murphy requesting the Board issue a release of a recorded performance security agreement
- Recorded Charles River Village performance security agreement dated 10-8-2013, recorded 10-10-2013
- Release document for your approval and signature
- Minutes of 12-13-18 PEDB meeting with vote to release the Charles River Village bond funds

Susan Affleck-Childs

From: Contact form at Town of Medway MA <cmsmailer@civicplus.com>
Sent: Wednesday, February 9, 2022 9:25 AM
To: Susan Affleck-Childs
Subject: [Town of Medway MA] 6 Charles View Lane (Sent by Glenn Murphy, glennmurphy@verizon.net)

Hello sachilds,

Glenn Murphy (glennmurphy@verizon.net) has sent you a message via your contact form (<https://www.townofmedway.org/user/201/contact>) at Town of Medway MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.townofmedway.org/user/201/edit>.

Message:

Hello Susy,

I received the below email from the buyer atty. I have a copy of the recorded performance bond which cannot be uploaded here.

I represent the Seller. What do we need to do to obtain a release? Cash deal scheduled to close February 17.
Thank you.

Glenn

Hi Glenn.

Our title is back, and there is an old performance bond with the Medway Planning and Economic Development Board in Book 31815, Page 546 to insure the construction of the roads. A Release from the Board will be needed for recording prior to or at closing, thanks

Regards,

John J. Roche, Esq.
Law Offices of Roche and Roche, P.C.
38 Pond Street, Suite 308
Franklin, MA 02038
Tel 508-528-8300 x115
Fax 508 528 8889
john@rocheandrochepc.com
www.Roche-Murphy.com

LAND SUBDIVISION
N O T N O T
A N A N

Performance Secured by Lender's Agreement
Planning & Economic Development Board - Town of Medway, MA

CERTIFY
William P. O'Donnell
WILLIAM P. O'DONNELL, REGISTER

This agreement is entered into this 8th day of October, 2013, between the Town of Medway, acting through its Planning & Economic Development Board, with an address of 155 Village Street, Medway, MA 02053 (hereinafter referred to as "the Board"), and Charles River Village, LLC ("Applicant"), and Needham Bank, of 1063 Great Plain Avenue, Needham, Massachusetts 02492 ("Lender") to secure the construction of ways and installation of municipal services in the subdivision of land shown on an approved subdivision plan described below, in accordance with General Laws Chapter 41 Section 81U, and all other applicable provisions of the Subdivision Control Law and General Laws.

WHEREAS, on May 14, 2013, after a duly noticed public hearing, the Board approved a definitive subdivision plan showing **11 dwelling units**, which is entitled 'Definitive Plans "Charles River Village" Open Space Residential Development (OSRD) in Medway, Massachusetts' dated November 20, 2012, last revised May 30, 2013, drawn by Faist Engineering Inc. of Southbridge, MA and O'Driscoll Land Surveying Co. of Medway, MA, prepared by Faist Engineering Inc. of Southbridge, MA and O'Driscoll Land Surveying Co. of Medway, MA, dated November 20, 2012, last revised May 30, 2013 and recorded at the Norfolk County Registry of Deeds in Plan Book 624, Pages 4-20 (hereinafter referred to as "the Subdivision Plan"); and

WHEREAS, the Subdivision Plan shows the division of a parcel of land located at 6 Neelon Lane and further described in a deed or deeds recorded in the Norfolk County Registry of Deeds in Book 31487, Page 392; and

WHEREAS, the Applicant has recorded a first mortgage with the Lender dated June 27, 2013 and recorded in the Norfolk County Registry of Deeds, Book 31487, Page 396 covering the land shown on the Subdivision Plan as security for the payment of a note in the principal sum of \$2,160,000.00; and

WHEREAS, the Board is required by G.L. c. 41 §81U to secure the construction of ways and installation of municipal services in the subdivision.

NOW, THEREFORE, the parties agree as follows:

1. The Applicant and Lender hereby bind and obligate themselves, their executors, administrators, devisees, heirs, successors and assigns to the Board in the sum of **\$132,417.00**, and have secured this obligation by the Lender retaining said sum of money from said principal sum otherwise due the Applicant ("Retained Funds") to be used to secure the performance by the Applicant of all covenants, conditions, agreements, terms and provisions contained in the following: the Subdivision Control Law (G.L. c. 41 §§ 81K-81GG); the Board's

Rules and Regulations for the Review and Approval of Land Subdivisions applicable to this subdivision; the application submitted for approval of this subdivision; the Board's Certificate of Action and all conditions of approval of this subdivision as set forth in the Certificate of Approval; the recommendations of the Board of Health; the approved Subdivision Plan; all conditions subsequent to approval of this subdivision due to any amendment, modification or revision of the Subdivision Plan; all of the provisions set forth in this Agreement and any amendments thereto; and the following additional documents:

N/A (hereinafter the "Approval Documents").

2. The Applicant shall complete the construction of ways and the installation of municipal services no later than 3 years from the date of the endorsement of the Subdivision Plan. The Subdivision Plan was endorsed on June 11, 2013, and therefore the required completion date is June 11, 2016.
3. Upon completion of all obligations as specified herein on or before the required completion date, or such later date as may be specified by vote of the Board with the concurrence of the Applicant, the interest in such Retained Funds by the Lender shall be released, and the Lender may disburse such Retained Funds to the Applicant. In the event the Applicant should fail to complete the construction of ways and installation of municipal services as specified in the Approval Documents and within the time herein specified, the Lender shall make available to the Board any undisbursed Retained Funds in accordance with applicable laws, in whole or in part, for the benefit of the Town of Medway to the extent of the reasonable costs to the Town of Medway to complete construction of ways and installation of municipal services as specified in this agreement. Any unused portion of the Retained Funds together with accrued interest, will be released by the Board and may be disbursed by the Lender upon completion of the work by the Town of Medway.
4. The Lender hereby agrees that none of the Retained Funds retained as security as specified herein shall be disbursed to the Applicant without the prior written release of said funds by the Board.
5. The Board may rescind approval of the Subdivision Plan for breach of any provision of this Agreement or any amendments thereof. Such rescission shall be in accordance with G.L. c. 41 §81W.
6. The Board shall notify the Lender of any authorized reduction or release of the retained funds that secure this agreement in full or in part. Upon receipt of a written notice of reduction or release, the Lender may disburse the Retained Funds, or portion thereof, to the Applicant.
7. The Applicant agrees and understands that the Board will not release this agreement until the ways and municipal services have been deemed by the Board to be constructed and installed in accordance with this agreement, which shall include demonstration of adequate construction and installation for six months prior to said release. This agreement does not expire until released in full by the Board.

8. Failure to complete construction of the ways and installation of the municipal services by the required completion date shall result in automatic rescission of approval of the Subdivision Plan.

C O P Y

C O P Y

9. If a court of competent jurisdiction determines that any provision of this agreement is unenforceable, such determination shall not affect the remaining provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF we have hereunto set our hands and seals this 8th day of October, 2013.

PLANNING & ECONOMIC DEVELOPMENT BOARD – TOWN OF MEDWAY

[Handwritten signatures of board members]

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

On this 8th day of October, 2013, before me, the undersigned notary public, personally appeared the following Members of the Medway Planning & Economic Development Board

Andy Rodenhiser
Karyl Spiller-Walsh, Thomas A. Gay,
Matthew J. Hayes

proved to me through satisfactory evidence of identification, which was (personal knowledge) (Massachusetts driver's license), to be the persons whose names are signed on the preceding document, and acknowledged to me that it was signed voluntarily for its stated purpose.



[Handwritten signature of Notary Public]
Notary Public
My commission expires: July 11, 2014

APPLICANT

N O T
A N

N O T
A N

Charles River Village, LLC
O F F I C I A L
C O P Y

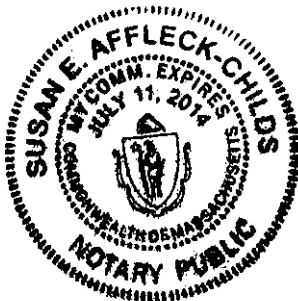
O F F I C I A L
C O P Y

By: John F. Claffey - Manager
John F. Claffey, Manager

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

On this 8th day of October, 2013, before me, the undersigned notary public, personally appeared the above-named John F. Claffey, proved to me through satisfactory evidence of identification, which was (personal knowledge) (Massachusetts driver's license), to be the person whose name is signed on the preceding document, and acknowledged to me that it was signed voluntarily for its stated purpose as Manager of Charles River Village, LLC.



Susan E. Affleck-Childs
Notary Public
My commission expires: July 11, 2014

NOT AN OFFICIAL COPY
LENDER
Needham Bank

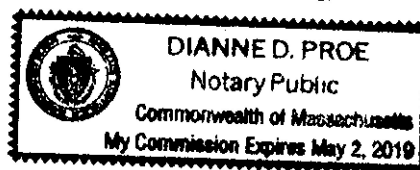
By: [Signature]
John W. McGeorge
Its: Chief Executive Officer

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

On this 8th day of October, 2013, before me, the undersigned notary public, personally appeared the above-named John W. McGeorge, Chief Executive Officer, proved to me through satisfactory evidence of identification, which was (personal knowledge) (Massachusetts driver's license), to be the person whose name is signed on the preceding document, and acknowledged to me that he signed voluntarily for its stated purpose.

[Signature]
Notary Public
My commission expires: May 2, 2019



**Release of Performance Secured by
Lender's Agreement
Planning & Economic Development Board
Town of Medway, MA**

We, the undersigned members, being a majority of the Planning and Economic Development Board of the Town of Medway, Norfolk County, Massachusetts, hereby certify on this date that residential dwelling units with the following addresses - 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 Charles View Lane constructed in the Charles River Village Condominium, created by Master Deed dated April 16, 2014, as may be amended, and recorded with the Norfolk County Registry of Deeds in Book 32184, Page 572, and being a portion of Development Parcel A as shown on a plan entitled, 'Definitive Plans "Charles River Village" Open Space Residential Development (OSRD) in Medway, Massachusetts' dated November 20, 2012, last revised May 30, 2013, drawn by Faist Engineering Inc. of Southbridge, MA and O'Driscoll Land Surveying Co. of Medway, MA which was recorded at the Norfolk County Registry of Deeds on July 18, 2013 in Plan Book 624, Pages 4-20, to which reference may be made for a more particular description, are hereby released from all covenants, conditions, agreements, terms and provisions as set forth in the Land Subdivision Performance Secured by Lender's Agreement between the Medway Planning and Economic Development Board and Charles River Village LLC and Needham Bank dated October 8, 2013 and recorded with the Norfolk County Registry of Deeds in Book 31815, Page 546.

Executed under seal this _____ day of _____, 2022.

Signatures of a majority of the members of the Planning and Economic Development Board of the Town of Medway.

COMMONWEALTH OF MASSACHUSETTS

Norfolk County

On this ____ day of March, 2022, before me, the undersigned notary public, personally
appeared _____

_____,

proved to me through satisfactory evidence of identification, which was personal knowledge, to be
the persons whose names are signed on the preceding or attached document, and acknowledged to
me that they signed it voluntarily for its stated purpose.

Notary Public:

My commission expires:

**February 13, 2018
Medway Planning and Economic Development Board
155 Village Street
Medway, MA 02053**

Members	Andy Rodenhiser	Bob Tucker	Tom Gay	Matt Hayes	Rich Di Iulio
Attendance	X	X	X	X	Absent with Notice

ALSO PRESENT:

- Susy Affleck-Childs, Planning and Economic Development Coordinator
- Gino Carlucci, PGC Associates
- Amy Sutherland, Recording Secretary

Member Di Iulio will file a Mullin's ruling for the February 13, 2018 meeting.

The Chairman opened the meeting at 7:00 pm.

There were no Citizen Comments.

Lawrence Waste Site Plan Modification, 49 Alder Street – Deadline Extension

The Board is in receipt of the following: **(See Attached)**

- 1-29-18 email from Keith Lawrence
- Site Plan modification decision from 6-24-14
- Deadline extension approval decision dated 7-6-16

The applicant is seeking a three year extension for the second building on the premises.

On a motion made by Tom Gay and seconded by Matt Hayes, the Board voted unanimously to extend the deadline for completing the Lawrence Waste Site Plan Modification to 7-22-18.

Medway Green Multifamily Housing Special Permit 176-178 Main Street – Deadline Extensions

The Board is in receipt of the following: **(See Attached)**

- Letter dated from developer John Kelly requesting extensions to initiate and complete project.
- Multifamily Housing Special Permit decision dated 3-22-17

**On a motion made by Matt Hayes and seconded by Tom Gay, the Board voted to approve The extension deadline for 176-178 Main Street until December 21, 2019.
(Member Rodenhiser voted no) Vote passes 3 to 1.**

Chairman Rodenhiser explained that there is storage of Route 109 equipment on this site. He doesn't feel this is allowed in this zoning district. He also inquiring about if there are construction easements. This area needs to be cleaned up.

It was suggested that a list of construction easements be gathered and provided to the Board. IT was also suggested that a meeting be set up with the Town Administrator to share the Board's concerns.

Public Hearing - Milway Auto Site Plan, 50 Alder Street:

The public hearing was opened.

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to waive the reading of the public hearing notice.

It was announced that the applicant had requested a continuation of the public hearing.

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to continue the public hearing to February 27, 2018 at 7:15 pm.

Charles River Village OSRD Bond Release:

The Board is in receipt of the following: **(See Attached)**

- Letter from Dave Faist, McClure Engineering dated 2-12-18 certifying Charles River Village has been completed in compliance with the approved CRV plan.
- Revised CRV As-Built Plans dated 1-5-18 by McClure Engineering
- Tetra Tech email/memo sign off dated 1-9-18 on as-built plans.
- Tetra Tech bond estimate (10-5-13) for \$132,417
- Tetra Tech bond reduction estimate (11-5-15) for \$16,755.

The developer, John Claffey, acting through his representatives Paul Yorkis and Attorney Bill Sack, has requested the bond release from the remaining CRV bond. The current balance is \$40,000. This is a Tri-Party agreement with Needham Bank.

There are some concerns from abutters that the trails are not designated or marked. There are also ongoing challenges with the use of the emergency access by delivery trucks. It was meant to be used by emergency vehicles. The Open Space Committee is interested in working to provide several parking spaces to the west of the open space parcel to provide additional access.

On a motion made by Bob Tucker and seconded by Tom Gay, the Board voted unanimously to release the remaining bond as long as all outstanding bills are paid.

PEDB Meeting Minutes:

January 30, 2018:

On a motion made by Matthew Hayes and seconded by Tom Gay, the Board voted unanimously to approve the minutes from the January 30, 2018 meeting as presented.

Other Business Boards/Committees:

Member Hayes provided the following updates:

- The Open Space and Recreation Plan Update Task Force had a meeting on 2/12/18 and discussed mapping and farm land and how to go forward in ranking open space land.
- There is an OSRP Community Forum meeting on Monday, March 12, 2018 at the Thayer House. Town Counsel will be present at a Task Force meeting on February 26th to discuss the idea of a bike trail on the railroad right of way.
- There will be a land management workshop for the OSRP Task Force on Saturday, May 5, 2018 at the Amphitheater to look at land management and how to create a plan.
- At the last Community Preservation Committee meeting, there was discussion about the State's requirement that land purchased with CPA funds be protected with deed restrictions. A group is starting to research the idea of establishing a Medway Land Trust and/or working with existing land trusts in the area.

Correspondence:

Note - Chairman Rodenhiser excused himself from table.

The Board is in receipt of the following: **(See Attached)**

- Email dated 2-8-18 from John Shea at Needham Bank: regarding the Applegate Subdivision.

Construction Reports: (See Attached)

- Exelon Expansion - Monthly Construction Report 1-31-18.

Public Hearing - Town Line Estate Definitive Plan

The Board is in receipt of the following: **(See Attached)**

- Public Hearing Notice
- Subdivision Application
- Development Impact Report
- Requests for Waivers of Subdivision Rules and Regulations
- Town Line Estates Definitive Plan by L.A.L Engineering and Continental Land Survey dated 12-12-17.
- Tetra Tech review letter dated 2-8-18
- PGC review letter dated 2-6-18
- Review comments from Conservation Agent Bridget Graziano dated 1-24-18.
- Review Comments from Fire Chief Jeff Lynch dated 6-19-17

The Chairman opened the hearing for Town Line Estates Definitive Plan.

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to waive the reading of the public hearing notice.

Engineer Jeff Kane explained that this application is from Robert and Lisa Lapinsky. This was prepared by L.A.L Engineering Group. The plan shows the division of the property into two residential lots, one with frontage on Populatic Street with the existing house and the construction of a 240' long, 18' wide permanent private roadway to create legal frontage for the back lot. The property is located in the groundwater protection district. This proposal is for a "by right" use in this zoning district. The plan calls for a one inch strip of land between the new right of way and existing lot to the north at #18 Populatic Street. The applicant is seeking 10 waivers. There is also a no cut buffer area at the rear of Walker Street. There are no sidewalks proposed for the site.

Consultant Steve Bouley from Tetra Tech was present on the telephone. The Board reviewed the Tetra Tech letter. Steve indicated that a reserve strip was proposed, but those are not allowed under the regulations. However, this is needed so that a building on the adjacent property does not lose its non-conforming status. The project proposes to clear less than one acre of land so it does not require a NPDES Construction General Permit and associated SWPPP to be submitted. Consultant Bouley indicated that a Town sewer line exists in Populatic Street and should be connected to if possible instead of installing a septic system.

The applicant indicated that they will do a septic and will have to meet the Board of Health requirements for Title Five. There will be no sewer tie in.

Consultant Carlucci reviewed the application and provided a letter. He indicated that the proposed lots meet the area, frontage and lot shape factor which complies with the zoning bylaw. Does not think landscaping is necessary, there are already trees and landscaping there. It would be more burdensome to disturb something that is already there.

The hearing was open to abutters.

Resident, Steve Freddo, 15 Walker:

Mr. Freddo presented to the Board a letter dated February 13, 2018. **(See Attached)** This had attached signatures of some of the abutters. Mr. Freddo read the letter out loud to the Board.

The following are a list of concerns:

- Interference of rights to privacy
- Potential damage to property value, noise, crime, fire, storm water issues,
- Streets designates scenic roads, the wildlife habitats will be effected.
- Protection of scenic roads (does applicant need to comply for permit)
- Confirm trees greater than 30 inches in diameter
- Approved waivers must be in the public interest

The abutter asked if the proposed subdivision provides the minimum required frontage for both lots required and whether the Board considers the private way as street frontage. The Chairman did indicate that the private way is considered street frontage.

The abutter asked that the abutter mailing be checked to make sure all were notified.

The Board did indicate that there can be a selective cut zone. The Consultant indicated that this project is allowed based on zoning.

On a motion made by Matt Hayes and seconded by Tom Gay, the Board voted unanimously to continue the hearing for Town Line Estates to March 13, 2018 at 7:15 pm.

ANR Plan – 15 Trotter Drive:

The Board is in receipt of the following: (See Attached)

- ANR Application
- ANR Plan by Colonial Engineering dated 12-27-17
- PGC Review dated 2-7-18

The ANR plan is to split off another acre of the Mele property at the northern end on the east side of Trotter Drive. PGC Associates provided a review letter noting several minor deficiencies. The plan has since been revised (2-7-18) and reviewed and is acceptable for endorsement.

On a motion made by Matt Hayes, and seconded by Bob Tucker, the Board voted unanimously to endorse the ANR Plan for 15 Trotter Drive with a revision date 2/7/18.

Public Hearing - Proposed Zoning Amendments for March 19, 2018 Town Meeting

The Board is in receipt of the following: (See Attached)

- Public hearing Notice
- Proposed Articles
- Confidential email dated 2-5-18 from Town Counsel
- Confidential email dated 11-20-17 from town counsel.

The Chairman opened the public hearing for proposed Zoning Bylaw Amendments.

On a motion made by Bob Tucker and seconded by Matt Hayes, the Board voted unanimously to waive the reading of the public hearing notice.

Susy Affleck-Childs recommended that the Board keep this public hearing open until after the community's Recreational Marijuana Ballot Vote on March 6, 2018. If the ballot vote is not approved, the PEDB will need to devise an alternative recommendation to provide at the March 19, 2018 at Town Meeting.

Article A:

Article A is in regards to recreational marijuana with proposed definitions for marijuana retailer and marijuana establishment and amendments to the Table of Uses to indicate where such uses would be allowed/prohibited.

Article B:

This article pertains to registered Marijuana Dispensaries (medical marijuana). This is to amend Section 8.9 of the Zoning Bylaw with the modification of item 5.i. in Paragraph E. General

Requirements. This proposal revises language so that no Registered Marijuana Dispensary shall be located on a lot within 500 linear feet of any lot with a registered marijuana dispensary that sells, dispenses or administers marijuana, products containing marijuana or relates supplies to qualifying patients or personal caregivers.

The members wanted to ask Town Counsel if the recreational marijuana bylaw allows a social/private club to make the premises available for the smoking of recreational marijuana. This was recently done in Worcester.

No one was in attendance for the public hearing.

On a motion made by Matt Hayes and seconded by Bob Tucker, the Board voted unanimously to continue the hearing to Tuesday, March 13, 2018 at 7:45 pm.

Discussion of Articles for May 2018 Town Meeting:

The Board is in receipt of the following: **(See Attached)**

- Draft of revised Section 8.9 of the Zoning Bylaw converting the title of Registered Marijuana Dispensary (medical) to Registered Medical Marijuana Facilities and Marijuana Establishments.

The Board was advised that Consultant Carlucci worked on a draft of a substantial revision whereby the Town's current zoning regulations for registered (medical) marijuana dispensaries are blended into a new section addressing both medical and recreational marijuana. After reviewing the draft blended section, the Board agreed that it was confusing and asked that Susy and Consultant Carlucci create separate sections, one for medical marijuana and one for recreational marijuana.

Site Plan Rules and Regulations:

The Board is in receipt of the following: **(See Attached)**

- Site Plan Review section of the Zoning Bylaw

At the last meeting the members were provided with a draft of proposed revised Site Plan Rules and Regulations. They were asked to review and provide comments and suggestions back to Susy. Tom provided his comments. Rich Di Iulio had previously provided his comments to Susy. It had been suggested it would also be helpful to review the various levels of site plan review and what criteria triggers each level.

The following suggestions were made

- Clarify what triggers site plan.
- Address the impervious areas more specifically relating to new parking spaces or reducing some of the impervious areas.
- Include more specific language about curb cuts.
- Clarify what triggers site plan review for outside storage.
- Include the DPW when looking at triggers for the onsite drainage. (Include language about % on increase over existing)

- Make sure the language is specific about the ability to go from a violation which is brought to administrative review which may then need to be bumped to either a minor or major site plan.
- Include possible language about % of coverage.
- Have the application specify the % of square footage of impervious

The Board would like Susy to continue to work on a draft of possible changes to the site plan section of the zoning bylaw.

FUTURE MEETING:

- Tuesday, February 27, 2018.

ADJOURN:

On a motion made by Matt Hayes and seconded by Bob Tucker, the Board voted unanimously to adjourn the meeting.

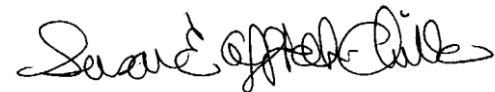
The meeting was adjourned at 10:25 pm.

Prepared by,



Amy Sutherland
Recording Secretary

Reviewed and edited by,



Susan E. Affleck-Childs
Planning and Economic Development Coordinator

