

TOWN OF MEDWAY
Planning & Economic Development Board
155 Village Street
Medway, Massachusetts 02053

Andy Rodenhiser, Chairman
Robert K. Tucker, Vice-Chairman
Thomas A. Gay, Clerk
Matthew J. Hayes, P.E.
Richard Di Iulio

November 12, 2019

***Major Site Plan Review and Groundwater Protection District
Special Permit***

***Trotter Drive LLC – 21 Trotter Drive
APPROVED with Waivers and Conditions***

Decision Date:

Name/Address of Applicant: Trotter Drive LLC
And Permittee 21 Trotter Drive
Medway, MA 02053

Name/Address of Property Owner: Trotter Drive LLC
21 Trotter Drive
Medway, MA 02053

Engineer: Engineering Design Consultants, Inc.
32 Turnpike Road
Southborough, MA 01772

Site Plan: 21 Trotter Drive Site Plan
Dated April 8, 2019, last revised October 8, 2019

Location: 21 Trotter Drive

Assessors' Reference: 64-003

Zoning District: West Industrial and Groundwater Protection District



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I. PROJECT DESCRIPTION – The proposed project includes construction of an approximately 6,900 sq. ft. addition to the existing building at 21 Trotter Drive occupied and used by R.P. Marzilli & Company for its professional offices and installation of associated site improvements including parking for 129 vehicles, stormwater management facilities, lighting, landscaping, an outside materials storage area, and a vehicle refueling facility. R.P. Marzilli & Company is a full service landscape contractor which has operated at this site since 1998. The property is 11.03 acres in size. The site's access from the existing curb cut at the end of Trotter Drive will remain in place. The existing building is set back approximately 320' feet from Trotter Drive. The project also includes paved parking for a total of 129 parking spaces for employees, visitors, and company vehicles. The planned improvements are shown on *21 Trotter Drive Site Plan dated August 6, 2019, last revised October 8, 2019, prepared by Engineering Design Consultants, Inc. of Southborough, MA.*

The site includes wetland resources under the jurisdiction of the Medway Conservation Commission and is located within Medway's Groundwater Protection District. Pursuant to Medway General Bylaws, Article XXVII – Stormwater Management and Land Disturbance, the Conservation Commission also has jurisdiction over the stormwater management of the site.

The proposal requires site plan review and approval subject to Section 3.5 of the Medway *Zoning Bylaw* (the "Bylaw"), and a groundwater protection district special permit pursuant to Sections 5.6.3 and 3.4 of the Bylaw.

II. VOTE OF THE BOARD – After reviewing the application and information gathered during the public hearing and review process, the Medway Planning and Economic Development Board (the "Board"), on November 12, 2019, on a motion made by Robert Tucker and seconded by Rich Di Iulio, ***voted to GRANT with CONDITIONS a groundwater protection special permit and to APPROVE with WAIVERS and CONDITIONS*** as specified herein, a site plan for the construction of an approximately 6,900 sq. ft. building addition and site improvements at 21 Trotter Drive as shown on 21 Trotter Drive Site Plan prepared by Engineering Design Consultants, Inc. of Southborough, MA dated August 6, 2019, last revised October 8, 2019, to be further revised as specified herein.

The motion was approved by a roll call vote of five in favor and none opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	Yes
Matthew Hayes	Yes
Thomas A. Gay	Yes
Andy Rodenhiser	Yes
Robert Tucker	Yes

III. PROCEDURAL HISTORY

- A. August 15, 2019 - Site plan application and associated materials filed with the Board and the Medway Town Clerk on August 19, 2019.
- B. August 19, 2019 – Groundwater protection district special permit application filed.
- C. August 19, 2019 – Public hearing notice filed with the Town Clerk and posted at the Town of Medway web site's master meeting calendar.

- D. August 19, 2019 – Site plan information distributed to Town boards, committees and departments for review and comment.
- E. August 20, 2019 - Public hearing notice mailed to abutters by certified sent mail.
- F. August 26, and September 3, 2019 - Public hearing notice advertised in *Milford Daily News*.
- G. September 10, 2019 - Public hearing commenced. The public hearing was continued to October 1, October 22, November 5, and to November 12, 2019 when the hearing was closed and the *Decision* rendered.

IV. INDEX OF SPECIAL PERMIT AND SITE PLAN DOCUMENTS

- A. The site plan and special permit applications for the proposed R.P. Marzilli & Company building expansion and site improvement project included the following plans, studies and information that were provided to the Board at the time the applications were filed:
 - 1. Site Plan Application dated August 15, 2019, project description letter, certified abutters' list, development impact statement, and requests for waivers from the *Site Plan Rules and Regulations*
 - 2. *21 Trotter Drive – A Site Plan in Medway, MA* dated April 8, 2019, revised August 6, 2019 prepared by Engineering Design Consultants, Inc. of Southborough, MA
 - 3. Groundwater Protection District special permit application dated August 19, 2019 with Memorandum in support of the special permit application.
 - 4. Stormwater Calculations for 21 Trotter Drive prepared by Engineering Design Consultants, Inc. of Southborough, MA
 - 5. Building improvement and addition floor plans and elevations by Arch Consulting, Inc. of Norwell, MA, Sheet A-1, dated January 16, 2019
 - 6. Building improvement and addition elevation options by Spencer Beebe, Sheet L1.01, dated August 15, 2019.
- B. During the course of the Board's review, a variety of other materials were submitted to the Board by the Applicant and its representatives:
 - 1. *21 Trotter Drive – A Site Plan in Medway, MA* dated April 8, 2019, last revised October 8, 2019 prepared by Engineering Design Consultants, Inc. of Southborough, MA
 - 2. Groundwater Protection District special permit Supplemental Memorandum in support of the special permit application, received September 30, 2019
 - 3. Email dated October 24, 2019 from Peter Bemis, Engineering Design Consultants
 - 4. Revised building elevations and renderings, undated and unattributed, received September 23, 2019
 - 5. Revised building elevations and renderings, undated and unattributed, received October 7, 2019.
 - 6. Revised building elevations and renderings, undated and unattributed, received October 30, 2019.

7. R.P. Marzilli Building Addition – REVISED Perspectives and Section, dated September 4, 2019 by Spencer Beebe.
 8. Letter dated October 30, 2019 from Walter Lewinski, P.E. of Engineering Design Consultants, Inc.
 9. Letter dated November 1, 2019 from Robert P. Coluccio, P.E. of Web Engineering Associates, Inc.
- C. During the course of the Board’s review, a variety of other materials were submitted to the Board by its staff, consultants, and other Town Boards and Committees.
1. Medway Zoning Board of Appeals variance and special permit decision for R.P. Marzilli & Company issued August 13, 1998.
 2. Conservation Commission Order of Conditions and Land Disturbance Permit dated September 30, 2019

V. TESTIMONY - In addition to the site plan and special permit application materials as submitted and provided during the course of the Board’s review, the Board also received verbal or written testimony from:

- Steve Bouley, P.E. of Tetra Tech, Inc., the Town’s Consulting Engineer – Site plan review letter dated September 5, 2019, site plan review letter dated November 5, 2019, stormwater review letter for the Conservation Commission dated August 8, 2019, September , 2019, and commentary throughout the public hearing process.
- Gino Carlucci, PGC Associates, the Town’s Consulting Planner – Site plan review letter dated September 5, 2019, email dated October 1, 2019 re: groundwater protection requirements, and commentary throughout the public hearing process.
- Robert Marzilli, owner of R.P. Marzilli & Co.
- Peter Bemis of Engineering Design Consultants, Inc. the Applicant’s engineering consultant
- Zoning review letter from Medway Building Commissioner Jack Mee dated September 5, 2019
- Review letter from the Medway Design Review Committee dated October 28, 2019
- Email note from Deputy Fire Chief Michael Fasolino dated September 10, 2019.
- Email from Deputy Fire Chief Michael Fasolino dated November 7, 2019
- Email from Police Sergeant/Safety Officer Jeff Watson dated November 12, 2019
- Email from Fire Chief Jeff Lynch dated November 12, 2019
- Greg Bliss, 26 Fox Run Road
- John Aviza, 2 Lost Hill Road
- Shirley Bliss, 26 Fox Run Road
- Bruce Carbone, 24 Fox Run Road

VI. FINDINGS – The Board, at its meeting on November 12, 2019, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted to approve the following **FINDINGS** regarding the site plan and special permit applications for 21 Trotter Drive. The motion was approved by a roll call vote of five in favor and none opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	Yes
Matthew Hayes	Yes
Thomas A. Gay	Yes
Andy Rodenhiser	Yes
Robert Tucker	Yes

Site Plan Rules and Regulations Findings – The Board shall determine whether the proposed development is in conformance with the standards and criteria set forth in the *Site Plan Rules and Regulations, as amended December 3, 2002*, unless specifically waived.

In making its *Decision*, the Board shall determine the following:

- (1) Has internal circulation, queuing and egress been designed such that traffic safety is protected, access via minor streets servicing residential areas is minimized, and traffic backing up into the public way is minimized?

The proposed use is an expansion of an existing operation. The project will not change traffic patterns to access the site which is located at the cul-de-sac terminus of Trotter Drive, the major roadway within the 495 Business Park. Access is from Trotter Drive so traffic on minor side streets is not necessary. However, subject to Condition F, employees, company vehicles, delivery companies and customers will be directed to use Trotter Drive from Route 109 to access the site instead of Alder Street to Trotter Drive. Internal site circulation is improved with a rebuilt driveway and better organized parking for employees, visitors and construction vehicles used in the business. The site plan has been carefully evaluated for truck maneuverability and has been found to be satisfactory. The site includes turnaround areas so there will be no backing out onto a public way. Neighborhood residents identified speeding traffic on Trotter Drive as a concern. The Applicant has agreed to install reduced speed signs on Trotter Drive to address this concern; see Condition C-10.

- (2) Does the site plan show designs that minimize any departure from the character, materials, and scale of buildings in the vicinity as viewed from public ways and places?

The proposed building is in an industrial/office building style; its scale and materials are suitable for the site and use. The design has been positively reviewed by the Design Review Committee and is acceptable for its location. The building and on-site operations are located well off Trotter Drive and are mostly not visible from the public way. Existing vegetation at the front of the site is being retained. There are no distinguishing buildings in the vicinity with which the proposed buildings would conflict in terms of character, materials and scale.

- (3) Is reasonable use made of building location, grading and vegetation to reduce the visible intrusion of structures, parking areas, outside storage or other outdoor service areas (e.g. waste removal) from public views or from (nearby) premises residentially used and zoned.

The proposed addition to the building and the upgrading of the site is almost entirely not visible from the public way or from nearby residential premises. Additional landscape buffering has been provided to screen the site from the adjacent residential property at 2 Lost Hill Drive. Therefore, the proposal is reasonable.

- (4) Is adequate access to each structure for fire and service equipment provided?

Access for fire and service equipment is provided with paved surfaces on three sides of the combined existing building and planned addition. The Fire Department has reviewed the plan and determined that access in and around the building is acceptable as is the location of the planned fuel storage facility.

- (5) Will the design and construction minimize, to the extent reasonably possible, the following environmental impacts?

- a) the volume of cut and fill;
- b) the number of trees to be removed with particular care taken with mature trees and root systems;
- c) the visual prominence of man-made elements not necessary for safety;
- d) the removal of existing stone walls;
- e) the visibility of building sites from existing streets;
- f) the impacts on waterways and environmental resource areas;
- g) soil pollution and erosion;
- h) noise.

The proposed stormwater drainage system has been reviewed by the Town's Consulting Engineer and the Conservation Commission; an Order of Conditions and Land Disturbance Permit were issued September 30, 2019. Appropriate soil pollution and erosion controls have been incorporated into the plan. No extraordinary noise will be generated by the operation of the facility. Visibility is minimal from Trotter Drive. No stone walls are being removed. The construction area was previously disturbed and the portion of the site close to wetlands is being restored to its natural state. Since the site is located within a Groundwater Protection District, this approval also includes a special permit that ensures it will not adversely affect groundwater.

- (6) Is pedestrian and vehicular safety both on the site and egressing from it maximized?

The entrance and egress to the site and its parking and loading facilities have been designed for safe operation and to minimize conflict. Walkways are provided from the parking area adjacent to the building entrances. Due to the nature of the site and its uses, pedestrian access to the site is not desired or encouraged. The site plan shows the provision of bicycle racks to accommodate employees who may wish to cycle to work.

- (7) Does the design and will the construction incorporate, to the maximum extent possible, the visual prominence of natural and historic features of the site?

There are no visually prominent natural or historic features on site.

- (8) Does the lighting of structures and parking area avoid glare on adjoining properties and minimize light pollution within the town?

The lighting plan was reviewed by the Board's consulting planner and engineer. The planned site lighting minimizes light pollution by using cut off lenses and there is no light spillage off site.

- (9) Is the proposed limit of work area reasonable and does it protect sensitive environmental and/or cultural resources? The site plan as designed should not cause substantial or irrevocable damage to the environment, which damage could be avoided or ameliorated through an alternative development plan or mitigation measures.

The limit of work is reasonable and it protects sensitive environmental resources. The project has been reviewed by the Conservation Commission and an Order of Conditions has been issued. The installation of a stormwater management system reduces the current impacts of presently untreated stormwater discharge to sensitive environmental resources located on the property.

Miscellaneous Findings

1. *The Zoning Board of Appeals authorized the use of the property at 21 Trotter Drive for a landscape construction business in a special permit and use variance granted August 13, 1998. This approval included a new building for offices, equipment and garage and the temporary storage of trees, shrubs, mulch, and stone products.*
2. *The Groundwater Protection Overlay District and the corresponding provisions of the Zoning Bylaw were adopted in 2004. 21 Trotter Drive is located within the Groundwater Protection District.*
3. *Installation of a diesel fueling system on the premises at 21 Trotter Drive occurred in 1999 as documented by Northeastern Petroleum Service and Supply Inc. Further, Holliston Oil Service has provided documentation that it has delivered diesel fuel to the property since April 2000.*
4. *Outdoor Storage – As indicated on Sheet 3 of the October 8, 2019 site plan, 90,700 sq. ft. of the site will be used for outdoor storage on a paved surface; 18,300 sq. ft. of the site will be used for outdoor storage on land. Combined, this comprises 109,000 sq. ft. (2.5 acres).*

Groundwater Protection District Findings – Section 5.6.3 of the Zoning Bylaw

- E. 1. **Permitted Uses** – *The proposed use shown on the site plan is an expansion of the existing use of the premises which includes a building for professional offices for R.P. Marzilli & Company and the accessory outdoor storage of landscape materials and parking of vehicles and equipment associated with the business operating on the premises. This use was initially authorized by decision of the Zoning Board of Appeals on August 13, 1998. Enlargement of an existing structure and new construction are permitted uses, subject to certain restrictions,*

within the Groundwater Protection District. As conditioned herein, the project will comply with those restrictions.

- E. 2. **Prohibited Uses** – *“Storage of liquid petroleum products” is a prohibited use and a new fuel storage tank system is proposed for the site. However, a diesel fuel storage and dispensing system has existed on the site since 1999 for fueling. The new system is a replacement and upgrade of a previously allowed use. The Town’s Groundwater Protection District regulations did not go into effect until 2004. Further, Section 5.6.3 E.3.a. of the Bylaw allows for the alteration or expansion of existing uses that do not conform to the Groundwater Protection District regulations by special permit. The Bylaw authorizes the Board to exercise its discretion to allow for an enlargement or alteration of existing uses that do not conform to the Bylaw’s current language.*

The proposed new fueling facility includes two, fixed mounted, above ground fuel storage tanks with a concrete pad underneath to accommodate containment for 5,300 gallons. One tank will have a 2,500 gallon capacity and the other has a 2,000 gallon capacity. The system includes double walled tight tanks, a concrete containment dike, concrete limiting barrier, overhead canopy, and other safety measures that represent a significant improvement over the existing fueling operation which has been in place since 1999. There is no increase in fuel storage capacity above that for the existing system. During the course of the public hearing, the location of the proposed fuel storage facility was moved approximately 80’ to the north placing it approximately 260’ away from the closest wetland limit and significantly outside the wetland buffer area. Pursuant to the Conservation Commission Order of Conditions, item #23, the Applicant shall submit information to the Conservation Agent and/or Commission, prior to the commencement of operations of the fueling facility, showing that the proposed fueling operation meets the requirements of the Massachusetts Stormwater Management Handbook and submit a Spill Prevention, Control, and Countermeasure (SPCC) Plan for the fueling station in accordance with US EPA requirements for a Tier II facility. The Applicant has retained Web Engineering of Scituate, MA to prepare the SPCC. See Condition G.

E.3. Uses and Activities Requiring a Special Permit – Specific to this project, the following uses and activities are allowed only upon the issuance of a special permit.

- a. *Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District. The installation of a new fueling system for the company’s vehicles does not conform to the list of permitted uses. However, the proposed new system is an improvement over the pre-existing fueling system which has been in place since 1999, well before the establishment of the Groundwater Protection District by the Town in 2004.*
- b. *Any use which will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. The proposed building expansion and site improvements at 21 Trotter Drive would increase the extent of impervious surface from 13.3% to 24.9%, thus triggering the need for a Groundwater Protection special permit.*

F. Special Permits

1. *The Board of Appeals is the designated special permit granting authority for the Groundwater Protection District. However, the Bylaw (Section 3.5. Site Plan Review, 4. a.) provides that authority to the Planning and Economic Development Board when both site plan approval and a special permit are needed so as to consolidate the review process. The Board has notified the Board of Health, the Conservation Commission, and the Medway Department of Public Works of the groundwater special permit application and sought their counsel and input as required by the Bylaw.*

1. a. The proposed use must not adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District.

The project has been reviewed by the Conservation Commission and the Town's Consulting Engineer to ensure that the planned stormwater management facilities and the associated groundwater recharge does not degrade groundwater quality. The Commission approved an Order of Conditions and Land Disturbance Permit on September 30, 2019 which specifies suitable measures to protect groundwater. This includes a requirement that the proposed addition and fueling station shall not include any form of untreated metal roofing and that any metal roof on the existing building shall be pretreated and painted with protective coating so as to prevent stormwater runoff from a metal roof of a building location in a Zone II watershed area. Further, a comprehensive stormwater management system has been approved for this site where there are currently no stormwater facilities whatsoever. The stormwater design provides for the required reduction of total suspended solids off of the paved surfaces through the use of sub-surface drainage structures, deep sump catch basins and an infiltration detention basin for treatment, infiltration and recharge; the total suspended solids removal rate will be 95%. Peak stormwater flows will now be managed for all peak storm events. This is a considerable improvement over current conditions where untreated stormwater is presently flowing to the receiving wetland areas on the site.

To further protect groundwater, the project is conditioned as included herein; see Condition E.

1. b. The proposed use shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

The location of the proposed addition to the west of the existing building is in an area that has historically been used primarily for yard storage of plant materials and vehicles. A significant portion of the site will remain in its natural state; after construction, 75.1 % of the property will remain impervious. This is considerably more than the 20% minimum impervious requirement of the Bylaw.

2. *The Board finds that the Applicant has provided sufficiently detailed, definite, and credible information to support positive findings in relation to the*

standards for a Groundwater Protection special permit as documented in the application materials and additional information provided during the course of the public hearing.

3. *The submission requirements and public hearing procedures have been conducted in accordance with Section 3.4 of the Bylaw and the Board's Site Plan Rules and Regulations including the posting of a public hearing notice with the Town Clerk, abutter notification, and legal advertisement. Information about the project has also been posted to the Board's web page and review and comments have been sought from the Board of Health, Conservation Commission, Sewer and Water Commission and the Department of Public Works.*

The Board finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or neighborhood.

Special Permit Findings - Unless otherwise specified herein, special permits shall be granted by the special permit granting authority only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In making its determination, the special permit granting authority, in addition to any specific factors that may be set forth in other sections of the Bylaw, shall make findings on all of the applicable criteria specified below:

- (1) The proposed site is an appropriate location for the proposed use.

The site is an appropriate location for the proposed use since it is an expansion of an existing building and is located in the 495 Business Park within the West Industrial zoning district where the proposed uses are allowed by right and by special permit.

- (2) Adequate and appropriate facilities will be provided for the operation of the proposed use.

As documented in the Findings pursuant to the Site Plan Rules and Regulations, adequate and appropriate facilities have been provided for the operation of the expanded facility. The proposed stormwater management system has been reviewed by the Board's Consulting Engineer and found to be adequate.

- (3) The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians or the environment.

The existing office and tool, equipment and landscape materials storage uses have operated on the premises for many years without creating a hazard to abutters, vehicles, pedestrians or the environment. The proposed building expansion and site improvement project will not materially change that operation but will improve operational efficiency in terms of movement of equipment and fueling. There is no planned increase in the number of employees. The planned improvements will positively impact the environment through the installation of a stormwater management system where none present exists. There will also be improved safety measures at the new fuel storage facility as compared to the present operation. Primary access to the site is from Route 109 and Trotter Drive

and Condition F. requires the business owner to take steps to discourage use of Alder Street by its employees, suppliers, and customers to access the site.

- (4) The proposed use will not cause undue traffic congestion or conflicts in the immediate area.

The driveway entrance to the site already exists and will be upgraded as part of the planned site improvements. The industrial park's roadway system is adequate to handle the small increase in traffic resulting from this expansion.

- (5) The proposed use will not be detrimental to the adjoining properties due to lighting, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site or operational attributes of the proposed use.

The Board considered the comments of abutters in the adjoining residential neighborhood. The plans document that there is no light trespass. The landscaping plan shows landscape buffering provided at the northeast corner of the property to screen the adjacent residential property at 2 Lost Hill Drive. No extraordinary noise, vibration dust or other operational attributes are expected from the proposed expanded use and no evidence of such impacts from the existing operation has been suggested. In addition to the new addition, the façade of the existing building is also being improved and overall, these changes will present a more positive visual appearance.

- (6) The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.

As conditioned, the proposed building expansion on the site will not adversely affect the surrounding neighborhood or change the character of the West Industrial zoning district. The use is allowed by right in the district, and the building addition is in character with other industrial buildings in the area. There is no change in use of the property from what presently exists. Adequate measures have been taken to reduce the impacts on nearby residential neighbors.

- (7) The proposed use is in harmony with the general purpose and intent of this Zoning Bylaw.

The proposed use is an expansion of an existing use within the West Industrial District where such uses are allowed so the character of the district will not change as a result of this planned expansion. The West Industrial district is designed to accommodate this type of use subject to certain conditions to limit any adverse impacts.

- (8) The proposed use is consistent with the goals of the Medway Master Plan.

The proposed facility is in compliance with the Economic Development Goals of the Medway Master Plan – “to encourage commercial/industrial development” and “attract new (and retain existing) businesses and increase the industrial/manufacturing tax base”.

- (9) The proposed use will not be detrimental to the public good.

As documented in the application, plan and associated materials submitted during the public hearing process, the proposed use helps achieve the goals the Medway Master Plan by providing an expanded tax base and preserving and increasing jobs while incorporating measures to protect the environment and neighboring residences. The Applicant has been contributing to the tax base of Medway for more than 20 years and the granting of the special permit will provide further financial benefit to the Town. For all of these reasons, the project is not detrimental to the public good.

VII. WAIVERS – At its November 12, 2019 meeting, the Board, on a motion made by Robert Tucker and seconded by Matthew Hayes, voted to grant waivers from the following provisions of the *Rules and Regulations for the Submission and Approval of Site Plans, as amended December 3, 2002*. The Board’s action and reasons for granting each waiver are listed below. All waivers are subject to the *Special and General Conditions of Approval*, which follow this section.

The motion was approved by a roll call vote of five in favor and none opposed.

Planning & Economic Development Board Member	Vote
Richard Di Iulio	Yes
Matthew Hayes	Yes
Thomas A. Gay	Yes
Andy Rodenhiser	Yes
Robert Tucker	Yes

Site Plan Submittal Requirements/Plan Contents

1. **Section 204-5 B. Site Context Sheet is required as part of the plan set.** The Site Context Sheet shall include the following information:

- A locus plan showing the site and its boundaries in relation to all surrounding streets within two thousand (2,000) feet of the perimeter of the site. The plan shall be at a maximum scale of one (1) inch equals one thousand (1,000) feet. Scenic roads shall be noted.
- Abutters' names and addresses with assessor's reference.
- Lot lines with dimensions and easement areas.
- Existing topography at two (2) foot intervals from USGS survey maps or actual land survey.
- All easements (*utility, conservation and other*) and rights-of-way.
- Zoning district boundaries including groundwater protection district, wetlands, and flood plain zones.

A separate Site Context Sheet has not been provided as part of the plan set. However, the information specified to be included on a Site Context Sheet is included on the Cover Sheet and Existing Conditions Sheet. For the foregoing reason, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

2. **Section 204 – 3. A. 7.a. Traffic Impact Assessment** – A traffic impact report is required if a development project involves the addition of 30 or more parking spaces.

The Applicant has requested a waiver from this requirement. The site plan shows paving to accommodate 129 parking spaces for the site, many of which are for company vehicles and has requested that the requirement for a traffic impact assessment be waived. As the current parking is neither paved nor striped, it is difficult to determine if there will be a net increase of 30 or more parking spaces. The nature of the business does not generate much consumer traffic and the proposed building expansion will not translate into an increased number of employees over current conditions. The preparation of a traffic impact assessment is not expected to reveal any useful information related to the site or the project's impacts. For the foregoing reasons, the Board APPROVES this waiver as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

3. **Section 204-5 C. 3) Existing Landscape Inventory** - An Existing Landscape Inventory shall be prepared by a Professional Landscape Architect licensed in the Commonwealth of Massachusetts. This inventory shall include a “mapped” overview of existing landscape features and structures and a general inventory of major plant species including the specific identification of existing trees with a diameter of one (1) foot or greater at four (4) feet above grade.

The Applicant has requested a waiver from this requirement as the site has been used for many years by R.P. Marzilli & Company (landscape construction) and is already considerably disturbed. The Board has requested and the Applicant has agreed to identify trees with a diameter of 18 inches or more at 4 feet above grade only within the limit of work area, not throughout the entire 11 acre site. As conditioned herein (Condition C), the site plan will be revised to show this partial inventory on the Existing Conditions Sheet. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

4. **Section 204-5 D. 3) Proposed Site Plan Information Sheets** - The Site Plan shall show the location and dimensions of proposed improvements such as . . . facilities for waste disposal and storage . . .

R.P. Marzilli & Company relies upon dumpsters and containers for storing and handling materials both long and short term onsite and this takes place behind the building and throughout the rear portion of the site. Outside storage bins for landscape materials are located along a portion of the western edge of the site as shown on the plan. The Applicant has requested that strict interpretation of this provision be waived. However, this requirement also pertains to the provision of facilities for the standard collection and storage of office waste and trash from routine office operations. The Board finds that an enclosed dumpster facility should be provided and located on the plan. For the foregoing reason, the Board DENIES this waiver.

Site Plan Development Standards

5. **Section 205-3 B. 6 Internal Site Driveways** - The perimeter of the driveway shall be bounded with vertical granite curb or similar type of edge treatment.

The Applicant has requested a waiver from this requirement and has proposed to use bituminous berms along all travel lanes and parking limits. Berm is an upgrade over the current conditions where no curbing is provided. Such berm is a suitable product for the site of a landscaping contractor business in this location and will serve to direct stormwater as needed. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

6. **Section 205-6 Parking. G. Parking Space/Stalls, 3. a)** Car parking spaces/stalls shall be ten (10) feet by twenty (20) feet, except that handicap stalls shall be in accordance with the current ADA standards.

The Applicant has requested waiver from this regulation and has proposed parking space stalls at a size of 9' by 18'. This is the allowed standard parking space size per Section 7.1.1. E. 3. a. of the Zoning Bylaw and is suitable for 24' wide two-way traffic aisles. Smaller sized parking spaces reduces the amount of impervious coverage which is appropriate in a Groundwater Protection District. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

7. **Section 205-6 G. 3. b) – Parking Spaces and Stalls** - Wheel stops are required at the head of each car stall where a space/stall abuts a walkway, pedestrian way, or special site feature such as an abrupt change in grade. Acceptable materials include pre-cast concrete, granite, or like materials. All wheel stops shall be properly anchored into the ground and located approximately twenty-four (24) inches from the head of a car space/stall.

The Applicant has requested a waiver from this requirement for the spaces abutting the walkways and has proposed use of Cape Cod berm, and integrated concrete walks and curbing. The installation of wheel stops creates obstructions within the parking area and makes snowplowing difficult. In lieu of using wheel stops, the Board asked for wider sidewalks to be provided where the parking areas abut a sidewalk to accommodate the overhang of vehicles and provide sufficient space for pedestrians; that change is shown on the October 8, 2019 plan set. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

8. **Section 205-6 G. 4. b) – Parking Spaces and Stalls** - Stalls shall not be located within 15' of the front, side or rear property lines.

The Applicant has requested a waiver from the full extent of this requirement for the parking area located within 15' along the western edge of the site. An approximately 10' setback is proposed for the 36 parking spaces in this area instead of the standard 15' setback. This area abuts the driveway for Merrimack Building Supply at 20 Trotter Drive for about 300'. A retaining wall along that boundary is proposed to provide some screening to the abutting property. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

9. **Section 205-6 H. Curbing** – The perimeter of the parking area shall be bounded with vertical granite curb or similar type of edge treatment to delineate the parking lot.

The Applicant has requested a waiver from this requirement and has proposed to use bituminous berms along all travel lanes and parking limits. Berm is an upgrade over the current conditions where no curbing is provided. Such berm is a suitable product for the site of a landscaping contractor business in this location and will serve to direct stormwater as needed. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

10. **Section 205-9. B. Landscape Buffers** - The use of proportionally sized landscaped buffers and berms between the street and structures, between the street and parking fields, between the site and its neighbors, and throughout parking lot islands is encouraged to provide for more immediate visual screening and improved topographical variation.

Landscape buffering is not planned along the western property line of the subject site abutting the adjacent Merrimack Building Supply property at 20 Trotter Drive. Portions of the area along the western boundary of 20 Trotter Drive are to be used for parking and outdoor materials storage for R.P. Marzilli & Company. Further, there is a driveway connection between the two industrial sites. A substantial landscape buffer is planned along that portion of the eastern property line which abuts a residential property at 2 Lost Hill Drive. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

11. **Section 205-9 F. F. Tree Replacement** – The total diameter of all trees over ten (10) inches in diameter that are removed from the site shall be replaced with trees that equal the total breast height diameter of the removed trees. The replacement trees may be placed on or off site as recommended by the Planning Board.

The Board has previously agreed to limit the inventory of trees to be removed from the site to only those over 18" in diameter in the work limit area. To provide a suitable buffer for the adjacent residential neighbor at 2 Lost Hill Drive, four white pine trees are to be removed; each is 20 – 24" in diameter for a total of 80 and 96" of required tree replacement. The replacement planting plan for this area is robust; it shows 25 giant green arborvitae (14' – 20' tall) and 9 Norway spruce trees (14' – 20' tall). The property owner at 2 Lost Hill Drive is satisfied with the proposed landscaped buffer. For the foregoing reasons, the Board APPROVES this waiver request as being consistent with the purpose and intent of the Site Plan Rules and Regulations which will have no significant detriment to the achievement of any of the purposes of Site Plan Review and Approval.

VIII. CONDITIONS The *Special and General Conditions* included in this *Decision* shall assure that the Board's approval of this site plan is consistent with the *Site Plan Rules and Regulations*, the Bylaw (Section 3.4 Special Permits) and (Section 5.6.3 Groundwater Protection District), that the comments of various Town boards and public officials have been adequately addressed, and that concerns of abutters and other town residents which were aired during the public hearing process have been carefully considered. The Board's issuance of a special permit and site plan approval is subject to the following conditions.

SPECIFIC CONDITIONS OF APPROVAL

- A. **Plan Endorsement** - Within sixty (60) days after the Board has filed the *Decision* with the Town Clerk, the site plan for the R.P. Marzilli & Co building expansion project at 21 Trotter Drive dated April 8, 2019, last revised October 8, 2019, prepared by Engineering Design Consultants, Inc. of Southborough, MA shall be further revised to reflect all Conditions and required revisions and additions, including those as follows, and shall be submitted to the Board to review for compliance with the Board's *Decision*. (*Said plan is hereinafter referred to as the Plan*). The Applicant shall provide a Mylar set of the revised Plan in its final form to the Board for its signature/endorsement. All Plan sheets shall be bound together in a complete set.
- B. **Cover Sheet Revisions** – Prior to plan endorsement, the cover sheet of the October 8, 2019 site plan set shall be revised as follows:
 - 1. Add a list of the approved requests for waivers from the *Site Plan Rules and Regulations*.
 - 2. Add a line with the signature box for Endorsement Date
 - 3. Expand the Sheet List to include the architectural drawings and elevations
- C. **Other Plan Revisions** – Prior to plan endorsement, the following plan revisions shall be made to the October 8, 2019 Site Plan set.
 - 1. Include sufficient bicycle racks pursuant to Section 7.1.1. I. Bicycle Parking of the Bylaw. Note on Layout Sheet and add a bike rack detail.
 - 2. Addition of notes to indicate regular locations of outdoor storage trailers and Conex type containers.

3. Show a location and detail for a dumpster for office use and suitable enclosure acceptable to the Board.
4. Include on the Existing Conditions sheet the inventory of trees 18" or larger in diameter located within the work limit area. Identify which trees are to be removed.
5. Add 6 deciduous shade trees of a minimum 2½" caliper in diameter in the parking areas to the Landscape Plan and include in the plant list table.
6. Have the Landscape Plan stamped by a landscape architect registered in the Commonwealth of Massachusetts
7. Show vertical granite curbing along the radius of the driveway opening from Trotter Drive for at least 12 feet beyond the gutter line.
8. Labels will be added to denote the locations for trailers and conex type containers.
9. Show the driveway connection between 20 and 21 Trotter Drive and specify its material and dimensions.
10. Show locations for reduced speed signs on Trotter Drive after consulting with Sergeant Jeff Watson on location and sign content.

D. *Use Limitations*

1. Parking or use of the parking areas at 21 Trotter Drive shall be limited only to vehicles for R.P. Marzilli & Co. employees, deliveries and customers. The parking area shall not be leased or made available to any other businesses for any purposes.
2. Outdoor storage shall be limited only to materials, vehicles and equipment actively used by R.P. Marzilli & Co. The outdoor storage areas shall not be leased or made available to any other business or organization for any purposes. The land area devoted to outdoor storage shall not exceed 30% of the lot area. The property is limited to the use of six conex type containers which shall be located behind the building and not in public view.

E. *Conditions Pertaining to Groundwater Protection District Special Permit*

1. Storage of hazardous materials and other hazardous materials is prohibited unless in a free-standing container within a building. Any hazardous materials that will be used at the facility shall be identified and a list provided to the Board. Any accidental spillage shall also be contained within the building and any that enters the sewer system shall be treated prior to being discharged to the municipal sewer system.
2. Any fertilizers used on landscape material anywhere on the site shall be the slow-release organic granular type, and only the absolute minimum necessary. All storage of fertilizers must be in a free-standing container within a building, have adequate secondary storage capacity or be within a facility designed to prevent the generation and escape of contaminated runoff or leachate. Application of fertilizers on site must be done in a manner to minimize adverse impacts on groundwater.

3. Outdoor storage anywhere on the site shall consist only of non-hazardous materials. Metal materials stored outside shall be under cover of a building or structure to prevent leaching of the metal into the groundwater.
 4. There shall be no outdoor storage of pesticides, herbicides, fungicides or insecticides anywhere on the site. Any such products shall be stored inside.
 5. Deicing materials shall be limited to calcium chloride or other deicer material approved by the Medway Department of Public Works.
 6. Plowed snow for the site shall be stored only in the designated areas shown on the plan or taken off site in times of substantial storms. No snow shall be disposed of in the stormwater detention basin.
 7. All vehicles shall be parked/stored on the paved surface to ensure treatment of any leaks of fluids from the vehicles. There shall be no outdoor maintenance or cleaning of vehicles.
 8. There shall be no earth removal within six feet of the historical high groundwater level.
 9. The Town reserves the right to periodically inspect the site to ensure compliance with these conditions.
- F. **Site Access** – Vehicular access to the site is provided from Route 109 and Trotter Drive. The Permittee shall instruct employees, delivery companies and customers to use Route 109/Trotter Drive and not Alder Street to access the property. Any printed or electronic company materials that provide directions to the site shall indicate the Route 109/Trotter Drive route.
- G. **Fueling Facility**
1. The Permittee shall submit the *Spill Prevention, Control, and Countermeasure (SPCC) Plan* prepared by Web Engineering of Scituate, MA to the Board before an occupancy permit is issued for the building addition.
 2. As specified by the Medway Fire Department, the fuel storage facility shall comply with 527 CMR 1 Massachusetts Comprehensive Fire Safety, specifically Chapter 66.
 3. The Permittee shall also secure the necessary permits from the Medway Fire Department for the decommissioning of the existing fuel storage tanks prior to the installation of the new fueling facilities.
- H. **Buffer Zone** – The Permittee shall maintain the 30' greenbelt easement along the eastern edge of the property as shown on the site plan and as required by the Bylaw for the West Industrial zoning district.
- I. **Signage** – Any changes to the existing monument sign for R. P. Marzilli & Company and any new building signage shall comply with Section 7.2 of the Bylaw.

- J. **Fire Hydrant** – Before a building permit is issued, the Permittee shall secure written communication from the Medway Fire Department indicating whether the existing fire hydrant located at the Trotter Drive cul-de-sac is sufficient for the planned expansion or whether an additional hydrant is needed within the site. The Permittee is required to provide the Fire Department with the necessary flow testing and other documentation needed to make this determination. If an additional hydrant is required, it will be handled as a field change to the site plan and be reflected on the as-built plan submitted at the conclusion of the project.
- K. **Utilities** – All electric, telephone, cable TV and other utilities shall be located underground. No overhead utilities are permitted.
- L. **Snow Storage** – Snow storage areas as shown on the plan are located within the 100 foot buffer zone to a wetland resource area. Prior to plan endorsement, the Permittee shall provide the Board with written authorization from the Conservation Commission to do so or revise the plan to show an alternative location for snow storage.
- M. The provisions and conditions of the 1998 ZBA decision remain in effect.

GENERAL CONDITIONS OF APPROVAL

- A. **Fees** - Prior to site plan endorsement by the Board, the Permittee shall pay:
 - 1. the balance of any outstanding plan review fees owed to the Town for review of the site plan by the Town's engineering, planning or other consultants; and
 - 2. any construction inspection fee that may be required by the Board; and
 - 3. any other outstanding expenses or obligations due the Town of Medway pertaining to this property, including real estate and personal property taxes business licenses, water/sewer bills, etc.

The Permittee's failure to pay these fees in their entirety shall be reason for the Board to withhold plan endorsement.
- B. **Other Permits** – This permit does not relieve the Applicant from its responsibility to obtain, pay and comply with all other required federal, state and Town permits. The contractor for the Permittee or assigns shall obtain, pay and comply with all other required Town permits.
- C. **Document/Plan Recording** - Within thirty (30) days of recording the *Decision* and the associated Plan, the Permittee or his assign shall provide the Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.
- D. **Restrictions on Construction Activities** – During construction, all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads. The Permittee and its contractors shall at all times use all reasonable means to minimize inconvenience to abutters and residents in the general area. The following specific restrictions on construction activity shall apply.

1. *Construction Time* - Construction work at the site and in the building and the operation of construction equipment including truck/vehicular and machine start-up and movement shall commence no earlier than 7 a.m. and shall cease no later than 6 p.m. Monday – Saturday. No construction shall take place on Sundays or legal holidays without the advance approval of the Building Commissioner. These rules do not apply to interior construction work such as carpentry, installation of drywall, flooring, electrical and HVAC systems, painting, etc.
2. *Neighborhood Relations* – The Permittee shall notify neighbors in the general area around the site when site work and construction are scheduled to begin and provide a phone number for them to use for questions and concerns that arise during construction.
3. The Permittee shall take all measures necessary to ensure that no excessive dust leaves the premises during construction including use of water spray to wet down dusty surfaces.
4. There shall be no tracking of construction materials onto any public way. Daily sweeping of roadways adjacent to the site shall be done to ensure that any loose gravel/dirt is removed from the roadways and does not create hazardous or deleterious conditions for vehicles, pedestrians or abutting residents. In the event construction debris is carried onto a public way, the Permittee shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve (12) hours of its occurrence.
5. The Permittee is responsible for having the contractor clean-up the construction site and the adjacent properties onto which construction debris may fall on a daily basis.
6. All erosion and siltation control measures shall be installed by the Permittee prior to the start of construction and observed by the Board's consulting engineer and maintained in good repair throughout the construction period.
7. *Construction Traffic/Parking* – During construction, adequate provisions shall be made on-site for the parking, storing, and stacking of construction materials and vehicles. All parking for construction vehicles and construction related traffic shall be maintained on site. No parking of construction and construction related vehicles shall take place on adjacent public or private ways or interfere with the safe movement of persons and vehicles on adjacent properties or roadways.
8. *Noise* - Construction noise shall not exceed the noise standards as specified in the *Bylaw*, SECTION V. USE REGULATIONS, Sub-Section B. Area Standards, Paragraph 2. b).

E. ***Landscape Maintenance***

1. The site's landscaping shall be maintained in good condition throughout the life of the facility and to the same extent as shown on the endorsed Plan. Any

shrubs, trees, bushes or other landscaping features shown on the Plan that die shall be replaced by the following spring.

2. Within 60 days after two years after the occupancy permit is issued, the Town's Consulting Engineer or the Building Commissioner shall inspect the landscaping to determine whether and which landscape items need replacement or removal and provide a report to the Board. At any time subsequent to this initial inspection, the Town's Consulting Engineer or the Building Commissioner may conduct further inspections of the landscaping to determine whether and which landscaping items need replacement or removal and provide a report to the Board. The Board may seek enforcement remedies with the Building Commissioner/Zoning Enforcement Officer to ensure that the comprehensive landscaping plan is maintained.

F. *Snow Storage and Removal*

1. On-site snow storage shall not encroach upon nor prohibit the use of any parking spaces required by the Bylaw.
2. Accumulated snow which exceeds the capacity of the designated snow storage areas on-site shall be removed from the premises within 24 hours after the conclusion of the storm event.

G. *Right to Enter Property* – Board members, its staff, consultants or other designated agents of the Town shall have the right to enter the property at any time to ensure continued compliance with the terms and conditions of this special permit and the endorsed site plan.

H. *Construction Oversight*

1. Construction Account
 - a) Inspection of infrastructure and utility construction, installation of site amenities including landscaping, and the review of legal documents by Town Counsel is required. Prior to plan endorsement, the Permittee shall establish a construction account with the Board. The funds may be used at the Board's discretion to retain professional outside consultants to perform the items listed above as well as the following other tasks - inspect the site during construction/installation, identify what site plan work remains to be completed, prepare a bond estimate, conduct other reasonable inspections until the site work is completed and determined to be satisfactory, review as-built plans, and advise the Board as it prepares to issue a *Certificate of Site Plan Completion*.
 - b) Prior to plan endorsement, the Permittee shall pay an advance toward the cost of these services to the Town of Medway. The advance amount shall be determined by the Board based on an estimate provided by the Town's Consulting Engineer.
 - c) Depending on the scope of professional outside consultant assistance that the Board may need, the Permittee shall provide supplemental payments to

the project's construction inspection account, upon invoice from the Board.

- d) Any funds remaining in the Permittee's construction inspection account after the *Certificate of Site Plan Completion* is issued shall be returned to the Permittee.
2. Board members, its staff, consultants or other designated Town agents and staff shall have the right to inspect the site at any time, for compliance with the endorsed site plan and the provisions of this *Decision*.
3. The Department of Public Works will conduct inspections for any construction work occurring in the Town's right-of way in conjunction with the Town of Medway Street Opening/Roadway Access Permit.
4. The Permittee shall have a professional engineer licensed in the Commonwealth of Massachusetts conduct progress inspections of the construction of the approved site improvements. Inspections shall occur at least on a monthly basis. The engineer shall prepare a written report of each inspection and provide a copy to the Board within 5 days of inspection.

I. *On-Site Field Changes*

1. During construction, the Permittee may be authorized to make limited, minor, on-site field changes to the approved plan based on unforeseen site or job conditions, situations, or emergencies necessitated by field conditions or due to practical considerations. These field changes shall not alter items which may affect the site's compliance with this *Decision* and the Bylaw nor conflict with a specific condition of the *Decision*. Field changes shall not substantially alter the intent, layout or design of the endorsed site plan.
2. Prior to undertaking such field changes, the Permittee and/or contractor shall discuss the possible field changes with the Town's Consulting Engineer and submit a letter and drawings to the Planning and Economic Development Coordinator and the Building Commissioner describing the proposed changes and what conditions, situations, or emergencies necessitate such changes. In accordance with Section 3.5.2.C of the Bylaw, the Building Commissioner may determine that the field change is insubstantial, authorize the change, and so notify the Board. Otherwise, the Board shall review the proposed field changes at a public meeting and determine whether the proposed field changes are reasonable and acceptable based on the unforeseen conditions, situations, or emergencies and whether other options are feasible or more suitable. A written authorization of field change will be provided. Any approved field change shall be reflected in the as-built plan to be provided at project completion.

J *Modification of Plan and/or Decision*

1. Proposed modifications, not included on-site field changes, to the *Decision* or endorsed plan shall be subject to review by the Board.

2. This site plan and special permit approval is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies or commissions. Any changes to the site plan that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as site plan modifications.
3. Any work that deviates from the approved site plan or this *Decision* shall be a violation of the *Bylaw*, unless the Permittee requests approval of a plan modification pursuant to Section 3.5.2.A.3.c. and such approval is provided in writing by the Board.
4. The request for a modification to a previously approved site plan shall be subject to the same application and review process including a public hearing. Whenever additional reviews by the Board, its staff or consultants are necessary due to proposed site plan modifications, the Permittee shall be billed and be responsible for all supplemental costs including filing fees, plan review fees and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific limited aspects of the site, the Board may reduce the scope of the required review and waive part of the filing and review fees.
5. The Board shall issue a modification decision, file such with the Town Clerk, and provide copies to the Building Commissioner and other Town officials and the Permittee. Any modification approved by the Board shall be made a permanent part of the approved site plan project documents and shall be shown on the final as-built plan.

K. *Compliance with Plan and Decision*

1. The Permittee shall construct all improvements in compliance with the approved and endorsed site plan and this *Decision* any modifications thereto.
2. The Board or its agent(s) shall use all legal options available to it, including referring any violation to the Building Commissioner/Zoning Enforcement Officer for appropriate enforcement action, to ensure compliance with the foregoing Conditions of Approval.
3. The Conditions of Approval are enforceable under Section 3.1. F. of the Bylaw (non-criminal disposition) and violations or non-compliance are subject to the appropriate fine.

L. *Performance Security*

1. No occupancy permit for the planned addition shall be granted until the Board has provided a written communication to the Building Commissioner/Zoning Enforcement Officer that the project, as constructed, conforms completely and fully to the approved site plan and that any conditions including construction of any required on and off-site improvements, have been satisfactorily completed OR that suitable security/performance guarantee has been provided to the Town of Medway, to the Board's satisfaction, to cover the cost of all remaining work.

2. The Permittee shall propose a form of performance security which shall be of a source and in a form acceptable to the Board, the Treasurer/Collector and Town Counsel. The Board requires that the performance guarantee be accompanied by an agreement which shall define the obligations of the Permittee and the performance guarantee company including:
 - a) the date by which the Permittee shall complete construction
 - b) a statement that the agreement does not expire until released in full by the Board
 - c) procedures for collection upon default.
3. The amount of the performance guarantee shall be equal to 100% of the amount that would be required for the Town of Medway to complete construction of the site infrastructure including installation of stormwater management facilities, utilities, services, pedestrian facilities and all site amenities as specified in the approved Site Plan that remain unfinished at the time the performance guarantee estimate is prepared if the developer failed to do so.
4. The security amount shall be approved by the Board based on an estimate provided by the Town's Consulting Engineer based on the latest weighted average bid prices issued by the Mass Highway Department. The estimate shall reflect the cost for the Town to complete the work as a public works project which may necessitate additional engineering, inspection, legal and administrative services, staff time and public bidding procedures. The estimate shall also include the cost to maintain the infrastructure in the event the Permittee fails to adequately perform such and the cost for the development of as-built plans. In determining the amount, the Board shall be guided by the following formula in setting the sum: estimate of the Town's Consulting Engineer of the cost to complete the work plus a 30% contingency.
5. Final release of performance security is contingent on project completion.

M. ***Project Completion***

1. Site plan approval shall lapse after one (1) year of the grant thereof if substantial use has not commenced except for good cause. The work shown on the approved site plan shall be completed by the Permittee or its assignees within two (2) years of the date of plan endorsement. Upon receipt of a written request from the Permittee filed at least thirty (30) days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the site plan approval shall lapse and may be reestablished only after a new filing, hearing and decision.
2. Prior to issuance of a final occupancy permit, the Permittee shall request a ***Certificate of Site Plan Completion*** from the Board. The ***Certificate*** serves as the Board's confirmation that the completed work conforms to the approved site plan and any conditions and modifications thereto, including the

construction of any required on and off-site improvements. The **Certificate** also serves to release any security/performance guarantee that has been provided to the Town of Medway. To secure a **Certificate** of Site Plan Completion, the Permittee shall:

- a) provide the Board with written certification from a Professional Engineer registered in the Commonwealth of Massachusetts that all building and site work has been completed in substantial compliance with the approved and endorsed site plan, and any modifications thereto; and
- b) submit an electronic version of an As-Built Plan, prepared by a registered Professional Land Surveyor or Engineer registered in the Commonwealth of Massachusetts, to the Board for its review and approval. The As-Built Plan shall show actual as-built locations and conditions of all buildings and site work shown on the original site plan and any modifications thereto. The As-Built Plan shall also show all utilities found during the construction process. The final As-Built Plan shall also be provided to the Town in CAD/GIS file format per MASS GIS specifications.

- N. **Construction Standards** - All construction shall be completed in full compliance with all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.
- O. **Conflicts** – If there is a conflict between the site plan and the *Decision's* Conditions of Approval, the *Decision* shall rule. If there is a conflict between this *Decision* and/or site plan and the Bylaw, the Bylaw shall apply.

IX. APPEAL The Board and the Applicant have complied with all statutory requirements for the issuance of this *Decision* on the terms set forth herein. A copy of this *Decision* will be filed with the Medway Town Clerk and mailed to the Applicant/Permittee and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the *Decision* of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days after the filing of this *Decision* in the office of the Medway Town Clerk.

In accordance with G.L. c. 40A, §11, no special permit shall take effect until a copy of the *Decision* is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the *Decision* has been filed in the office of the Town Clerk and no appeal has been filed within said twenty day period, or that an appeal has been filed. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. The fee for recording or registering shall be paid by the Permittee. A copy of the recorded *Decision*, and notification by the Permittee of the recording, shall be furnished to the Board.

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**Medway Planning and Economic Development Board
SITE PLAN and SPECIAL PERMIT DECISION
Trotter Drive LLC, 21 Trotter Drive**

Approved by the Medway Planning & Economic Development Board: _____

AYE:

NAY:

ATTEST:

Susan E. Affleck-Childs
Planning & Economic Development Coordinator

Date

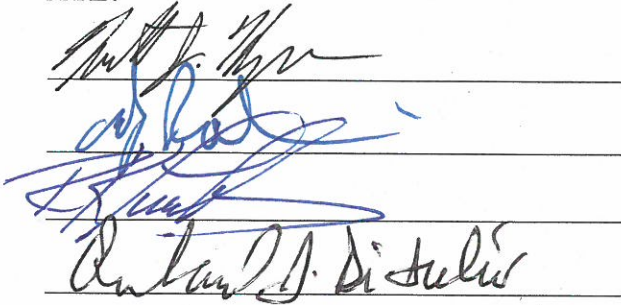
COPIES TO: Michael Boynton, Town Administrator
David D'Amico, DPW Director
Bridget Graziano, Conservation Agent
Donna Greenwood, Assessor
Beth Hallal, Health Agent
Jeff Lynch, Fire Chief
Jack Mee, Building Commissioner and Zoning Enforcement Officer
Barbara Saint Andre, Director of Community and Economic Development
Joanne Russo, Treasurer/Collector
Jeff Watson, Police Department Safety Officer
Robert Marzilli, R.P. Marzilli & Company
Peter Bemis, Engineering Design Consultants
Steven Bouley, Tetra Tech
Gino Carlucci, PGC Associates

Medway Planning and Economic Development Board
SITE PLAN and SPECIAL PERMIT DECISION
R.D. Marzilli Landscape Contractors/Trotter Drive LLC – 21 Trotter Drive

Approved by the Medway Planning & Economic Development Board: November 12, 2019

AYE:

NAY:



ATTEST:



Susan E. Affleck-Chnds
Planning & Economic Development Coordinator

November 12, 2019
Date

COPIES TO: Michael Boynton, Town Administrator
David D'Amico, Department of Public Works
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