

**Town of Medway  
Zoning Board of Appeals Meeting  
Middle School Auditorium  
Medway Middle School  
45 Holliston St, Medway MA 02053**

**MINUTES OF MEETING**

**May 4, 2016**

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

**Also Present:** Stephanie Mercandetti, Director, Community and Economic Development and Ezra Glenn, Public Planning Research & Implementation, Inc.

David Cole, Chairman, called the meeting to order at 7:43 PM.

**Citizen Comments**

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

**Public Hearings**

**7:45 PM- Public hearing for applicant Steve Houde seeking a Variance from Section 6.1 of the Zoning Bylaw to allow for an 8 ft. side setback where a minimum of 15 ft. is required for the construction of a garage on the property located at 184 Main Street, Medway, MA.**

The Board is in receipt of the following documents:

- Variance Application stamped by the Town Clerk on March 18, 2016.
- Plan of Land, dated March 6, 2016, prepared by Colonial Engineering Inc.
- Aerial and property photos provided by the applicant, Mr. Steve Houde, received March 18 and May 2, 2016
- Comments from Conservation Agent Bridget Graziano, email received April 1, 2016
- Email from Gloria Bain, received May 3, 2016
- Email from Ellen Wettengel, received May 4, 2016

The Board moved to hear the application. The applicant, Steve and Susan Houde, were present to discuss their request with the Board.

Mr. Houde explained that his home is in the ARII zoning district, and is a non-conforming lot created in 1830. The proposed garage is a barn like structure similar to 4 Milford Street in nature and would line up with existing driveway and allow room for vehicles to turn around before exiting driveway onto Route 109. He believes that the location of the garage is consistent with others in the area. All impacted neighbors have been notified and have expressed approval and provided letter/email to the town to document their support. Mr. Houde added that the privacy between his and the adjacent home at 182 Main Street provided by an arborvitae hedge will remain. The main reason for this request is to allow for a safer egress from the driveway onto a busy road.

Chairman David Cole agreed that the applicant makes a good case for the variance based on safety and topography, but asked why align the garage to the eastern side. Mr. Houde responded that the location suggested would prevent the existence of a narrow alley between existing home and proposed new garage.

Mr. White asked is there an architect involved for this project. Mr. Houde informed the Board that they were using a planner obtained through the builder and reiterated that the intent is to allow vehicles enough room to turn around and exit the property facing traffic.

Stephanie Mercandetti noted that the following comments related to this project were received via email:

- Conservation Agent Bridget Graziano provided comment that no wetlands resources were noted.
- Neighbor Gloria Bain expressed support for the proposed request.

Chairman Cole asked for any public comments or questions concerning the application.

- Ellen Wettengel of 182 Main Street stated that she was in full support of the application.

***A motion to close the hearing was made by Chairman Cole, seconded by Mr. White and passed.***

Chairman Cole noted that the Board would deliberate on this application at the next Board Meeting in two weeks.

**8:00 PM- The Applicant, Timber Crest, LLC, seeks a Comprehensive Permit under MGL c. 40B, Sections 20-23 as amended, to allow construction of a 188 unit development to be called “ Timber Crest Estates”, containing 25% affordable units on 163.07 acres which is comprised of the properties located at 143 Holliston Street, 153R Holliston Street, 177A Holliston Street, 21R Fairway Lane, 13 Ohlson Circle, 102 Winthrop Street, 11 Woodland Road, and 0R Woodland Road, Medway, MA.**

The Board is in receipt of the following documents:

- Comprehensive Permit Application for Timber Crest Estates stamped by the Town Clerk on March 23, 2016.
- "Timber Crest Estates" Plan Set, dated March 16, 2016, prepared by Outback Engineering Incorporated
- Preliminary Drainage Report for "Timber Crest Estates", dated March 16, 2016, prepared by Outback Engineering
- Memorandum regarding preliminary review of application submission requirements provided by Community & Economic Development Director Stephanie Mercandetti, dated March 29, 2016
- Letter from the Medway Fire Department, dated April 19, 2016
- Letter from the Medway Public Schools, dated April 23, 2016
- Email from Department of Public Services Director Tom Holder, dated April 25, 2016
- Letter from the Building Department, dated April 27, 2016
- Letter from the Conservation Commission, dated April 29, 2016
- Memorandum from Community & Economic Development Director Stephanie Mercandetti regarding Town of Medway Comment Letters to MassHousing, dated April 29, 2016
- Email from the Department of Public Services Deputy Director Dave Damico, dated May 2, 2016
- Letter from the Planning and Economic Development Board, dated May 2, 2016
- Email from Health Director Beth Hallal, dated May 3, 2016
- Email from the Department of Public Services Director Tom Holder, dated May 3, 2016

The Board moved to hear the application of Timber Crest LLC. The applicant and developer, Mounir Tayara; the developer's 40B consultant, Paul Cusson of Delphic Associates and the developer's engineer, Jim Pavlik of Outback Engineering were present to discuss the request with the Board.

Ezra Glenn of Public Planning Research & Implementation, Inc., who will serve as the town's 40B Consultant for this project started the hearing by providing a brief background of MGL c. 40B and comprehensive permit projects.

Mr. Glenn noted that he is a consultant working on behalf of the town of Medway, at no cost. He works for a non-profit consulting firm specializing in the handling of 40B projects. His role is to provide assistance and expertise to the Board related to the proposed project. Mr. Glenn went on to explain that 40B projects are large, unique, and require extra considerations. Chapter 40B is a state statute, which enables local Zoning Boards of Appeals to approve affordable housing developments under flexible rules if at least 20-25% of the units have long-term affordability restrictions. There is a state-wide goal that every town should hit a target of 10% affordable housing and Medway is currently at 5.3%. In towns that are under the 10% margin, such as Medway, a developer can come to the town under Chapter 40B and apply for a comprehensive permit (all permits in one place, i.e. zoning board), receive expedited review

(pressure is on the town to review in 180 days), and under chapter 40B, the developer can request a waiver from a by-law that they feel makes the project uneconomic. The Zoning Board can either approve the application without changes, approve with contingencies (the most typical scenario), or decline (at which time the applicant can appeal).

Mr. Glenn made the following recommendations to the board for this first public hearing:

- Identify and document concerns and potential issues to start
- Create a phased approach for addressing the identified issues and involve any subject matter experts at the appropriate phase (i.e. town officials, outside engineer, citizens from the town)

Mr. Glenn also stressed that under Chapter 40B, the developer is not exempt from any state requirements, such as the Wetlands Protection Act.

Mr. Paul Cusson and Mr. Jim Pavlik presented to the Board on behalf of the developer.

Mr. Cusson began by stating that the process for a 40B application is similar to going before the planning board for any other development project and what typically happens is that approval is granted based on the preliminary plan with recommendations and changes suggested by the Board being addressed and resolved along the course of the project. Mr. Cusson feels that that the plans and documents that have been submitted to the Board exceed plans normally submitted under section 40B. The plan for the proposed housing development was presented to the Board as well as to members of the public and Mr. Cusson highlighted the following throughout his presentation:

- It is a 25 % moderate income housing program (this is not Section 8 or low income housing), eligibility will be based on an annual income of \$74,000 for a family of 4
- Fulfills a need present in many towns where many working families cannot afford to purchase their own homes
- 75% of the homes can be set aside for Medway residents i.e. local preference to allow teachers, policemen and DPW workers to afford housing and not be locked out of the market
- Development is known as Timber Crest, and consists of 9 separate parcels (163 acres of land) bordered by residential areas
- All wetlands have been delineated and approved by the Conservation Commission. The majority of the wetlands are located in the middle of the property
- 188 housing units proposed:
  - 72 single family homes (on the west side)
  - 116 condominiums (on the east side) consisting of mainly duplexes with a few triplexes and detached single family units
- Main entrance on the west side is off of Winthrop Street with emergency egress at end of cul-de-sac to Ohlson Circle. The proposed road will be built to subdivision standards to be accepted by the Town.

- The single family homes will be serviced by sewer to be connected to Buttercup Lane, and town water, utilities, and gas
- The condominium side of the project will consist of a private roadway system, with a main entrance off of Fairway Lane with emergency egress to Fern Path. There will be a sewer connection to Fern path. The private roads will be maintained by the condo association.
- Project is designed so that water flow will not exceed what is currently present at the site. Typically, existing conditions related to water flow are improved for abutters post development.
- Environmentally sensitive plantings will be used for drainage purposes

Mr. Cusson reported that Timber Crest would be his 3<sup>rd</sup> 40B project in Medway and expressed that the developer wants to work constructively with the Board, town residents and the neighbors, and welcomes any comments or concerns. Mr. Cusson provided the Board with an additional handout consisting of architectural renderings and a fiscal impact summary. Based on a financial analysis conducted by the developer and his team, Mr. Cusson stated that this development would generate a positive income stream to the town of Medway based on calculations using the current tax rate and taking into account an estimated 75 school age children added to the school system, along with numerous building and permit fees that would be paid by the developer. He also added that normal market value homes and affordable housing units would be indiscernible from the exterior, a variety of aesthetically pleasing housing styles are being proposed, and affordable housing units must be dispersed throughout the development (a map of the proposed location for these homes has been submitted to the Board). The presentation concluded with showing a video simulation driving through the single family portion of the development and slides showing the units on the condominium segment.

Chairman Cole asked how the style and location of the affordable sites have been selected. Mr. Cusson explained that Mass Housing will give final approval, the specific models and location of affordable units can be changed, and that 25% of each model type may be designated as an affordable unit. Additionally, Chairman Cole noted that on the condo side of the development, 4 of the units appear to be double stacked with a common driveway between the units. Mr. Cusson reiterated that the developer is open to suggestions and modifications to the proposed plan.

Chairman Cole asked if there were members of the public that wished to comment or pose questions on the proposal.

#### ***Public Questions and Comments:***

An abutter asked who will be responsible for the cost associated with the connection of new sewer lines. Also, is concerned with the impact of over 100 additional houses to an area that already has low water pressure.

Mr. Cusson responded that the developer is responsible for cost of bringing sewer lines through other neighborhoods.

David Travalini, Chairman of Conservation Commission, urged the Zoning Board to enforce that developer pay fees to the Conservation Commission as this project will impose a significant time commitment on the Commission's resources. He also asked the Board to please consider upholding the rules and regulations of the Conservation Commission since state laws do not protect all of the natural resources that are under the jurisdiction of the Conservation Commission. Mr. Travalini noted that a few vernal pools in Medway have disappeared as a result of state laws not protecting these natural habitats. He also confirmed that not all wetland areas on the site for the proposed development are yet approved by the Conservation Commission.

Mr. Cusson responded by stating that a notice of intent will be submitted to the Conservation Commission.

Selectman Dennis Crowley of 6 Hill Street encouraged the Board to take a close look at the number of students that may impact the town and requested that an independent study be conducted to assess the accuracy of the number provided by Mr. Cusson. Mr. Crowley also asked for clarification in regard to the exit from the development onto Fern Path on whether it is primary or egress. Mr. Cusson assured the Board that typically the developer and his team will work with a school committee as homes get sold and the project will be phased over a period of time to minimize impact on the community. He also pointed out that the additional residents would have a positive impact on local businesses. Mr. Jim Pavlik confirmed that the access to Fern Path will be a primary entrance/exit. He also pointed out that Bill Scully of Green International has conducted a traffic study which will formally be presented at a later date. Mr. Crowley concluded his comments by pointing out that the numbers provided by Mr. Cusson in regard to revenue to the town do not include the impact on water and sewer usage.

Gary Neubauer of 4 Ohlson Circle stated that residents of Ohlson Circle were told years ago that sewer access was not accessible because a pump station is needed and asked if residents would be allowed to connect to sewer lines. He also expressed a concern in regard to the low number of fire exits from the development.

Mr. Cusson explained that it is normal for 40B projects to exceed density laws. Mr. Pavlik reported that they have looked at the sewer manhole at Buttercup Lane and around Ohlson Circle. He said that they would allow for Ohlson Circle residents to connect to the new sewer lines.

Lori Mackay of 106 Winthrop Street expressed significant concern over the increase in traffic around her home. Ms. Mackay explained that she presently doesn't feel it is safe when exiting her property onto Winthrop Street and is worried that this will only worsen with an egress right next to her house. Ms. Mackay also asked what the percentage increase in affordable housing in Medway would be if this project is approved.

Mr. Glenn stated that only the affordable housing units will get added to increase the percentage of affordable housing in town, and that it would likely result in an additional 1 %.

Chairman Cole stated for the record that comments were received from other town boards and departments such as the fire department, School Committee, Conservation Commission, Department of Public Services and will be added to the town website.

Charles Myers of 9 Curtis Lane asked the Board to consider the following:

- publish dates and times of when different concerns will be discussed
- please review the numbers presented for school children (too low)
- conduct an independent traffic study
- topics to be evaluated: site lines, school bus stops, number of volunteer firefighters, plow drivers, egress roads, liability (Fern Path is private), loss of assessment value for current residents

Peter Monego, Chairman of the Medway Cultural Council, stated that grant funding for the Cultural Council would increase as a result of the new development.

John Cenedella of 141 Holliston Street stressed the importance of wetlands and vernal pools as habitats and also expressed concern in regard to the impact of 188 new homes on the town's water usage.

Robert Walsh of 114 Winthrop Street showed extreme concern for having only one entrance/exit for the housing development planned on the west side of the property. In addition, Mr. Walsh stated that an egress onto Winthrop Street is dangerous as traffic on this street is already busy and drivers are constantly speeding and suggests that a traffic light would be necessary. As a property owner, Mr. Walsh is also concerned about the water flow across his land and urges the Board to require the developer to pay a bond.

Barbara Strachan of 11 Fairway Lane asked if the town requires developers to post a bond and wanted to know what recourse she would have as a homeowner if the developer leaves and she ends up with a wet basement. If a bond is posted, are homeowners allowed to seek reimbursement from the town for repair expenses.

Mr. Glenn stated that the town can certainly make that request that the developer post a bond as the town typically does require bonds for other projects. The town would then need to determine what that money could be used for.

Cindy Maliniak of 14 Fairway Lane asked when the army core of engineers comes in to do an assessment and wondered what would happen if the assessment confirmed that the project can't be completed.

Mr. Pavlik explained that this is a preliminary plan and they are aware that other state permits must be acquired as they get further along in the process. The plan must first be approved and if a substantial change is needed down the road a hearing would be held.

Chairman Cole added that in prior Board experience with similar projects it is typical to see additional rounds of subsequent changes and assured that this is the same process that is followed for a normal subdivision.

Ms. Maliniak commented that in her opinion, the plan presented by the developer is inaccurate and that residents wouldn't get away with providing this kind of information when applying for a permit to have work done on their home. She does not believe that the Board can make an educated decision based on information at hand.

Mr. Pavlik stated that this is just an overview. All of the drawings have been submitted to the Board and are available for viewing on the town website.

Stephanie Mercandetti confirmed that the plans and entire application package are available on the town website and that this is typical of a submission that is initially presented.

Mr. Glenn added that developers submit what is required and then town officials and residents can ask for more info to build on the application.

Robert LeBlanc of 108 Winthrop expressed concern over water pressure and believes that the town needs to think about how to get more water into the area.

Peter Schubert of 15 Ohlson Circle stated that in his opinion, it is negligent to consider this many houses with only one entrance. Mr. Schubert also stated that residents on Ohlson Circle should have access to new sewer lines.

Gary Neubauer of 4 Ohlson asked about the plans for 13 Ohlson Circle, the emergency egress and asked if issue with unpaid taxes on the property where the proposed development will be built have been resolved. The resident also asked what constitutes an adequate emergency access and reiterated what other Ohlson residents have stated in regard to having been told that sewer access was not accessible on that street.

Mr. Pavlik stated that the fire department would review the plans and provide guidance on what would be deemed adequate for emergency access.

Chairman Cole reminded the members of the public that all concerns and questions were being recorded.

Kurt Schaefer of 13 Fairway Lane said that water runoff has been a persistent issue on his property as well as neighboring properties on his street. Mr. Schaefer stated that he had professional drainage installed on his property at his own expense and is concerned as to how the water runoff from the proposed development will impact his property. He requested that the Board please take that into consideration as well as the proximity to the property lines, and entrance onto Fairway Lane.



John Bonarrigo of 9 Howe Street also voiced his concern in regard to the flow of water, and asked the Board to ensure that each phase of the project respect the 25% affordable housing ratio related to Chapter 40B.

Chairman Cole assured that the Board has routinely conditioned that the affordable units be sold in proportion to the market rate units that is agreed upon and spread through the various phases.

David Travalini of 4 Riverview Street (and Chairman of Conservation Commission) asked if a unit sold as an affordable home can be later sold at market rate.

Mr. Glenn stated that there are controls in place to uphold affordable housing status as units are sold. Affordable units have to be sold to eligible buyers. The process is monitored by the subsidizing agencies.

Mr. Cusson stated that there is a deed rider on an affordable unit to ensure that it remains as such.

Barbara Strachan of 11 Fairway Lane asked whose responsibility it is to monitor renting of an affordable unit once it is purchased.

Mr. Cusson stated that the deed rider is very specific on resale and the unit has to be owner occupied.

Mr. Crowley wanted to make it noted that Medway currently has difficulty selling affordable housing units and suggested that the language in the deed rider is examined closely to make sure that the units cannot be rented.

Catherine Spozio of 19 Fairway Lane requested that an independent traffic study be conducted and expressed concern that Fairway Lane could see an increase in over 400 cars per day going in and out of the new development (her calculations were based on the national average for number of cars per household).

Mr. Glenn recommended to end public comments and stated that a lot of issues have been identified and will be further assessed.

Chairman Cole identified stormwater runoff, site engineering, wetlands, traffic and emergency access as issues to be addressed. The Board will hire a peer review consultant.

Mr. Cusson stated that all documents have been submitted and requested that the town identify the peer reviewer.

Chairman Cole noted that the Board did not have the opportunity to read through all of the letters submitted by the different town committees prior to this meeting.

Mr. Cusson suggested holding workshop meeting with town officials to discuss some of the areas of concern with a few representatives from each of the different boards. Mr. Glenn agreed that this approach would make sense a little later in the process.

Kathy Campbell of 8 Fairway Lane raised a concern in regard to the location of a historic home on Winthrop Street.

Ms. Mercandetti noted that 102 Winthrop Street is not currently listed on the National Register of Historic Places but is eligible.

The Board requested Ms. Mercandetti seek a cost estimate for peer review engineering services.

Mr. Glenn raised the point that the Board needs to consider how the peer reviewer will be paid. Under Section 53G, the town can request money from the applicant for peer review.

Mr. Cusson stated that the developer does not expect the town to incur any costs associated with the review of the project and will work with members of the Board offline to come up with a plan agreeable to both parties.

On May 18<sup>th</sup>, the Board will have a discussion regarding the peer review fee estimates and the application filing fee only.

*A motion to continue the public hearing on the comprehensive permit application for Timber Crest Estates to June 1, 2016 at 7:45pm was made by Chairman Cole, seconded by Mr. Kennedy and passed unanimously.*

### **Adjournment**

A motion to adjourn the meeting was made by Mr. White, seconded by Mr. Kennedy and passed unanimously. The Board adjourned at 10:19 pm.

Respectfully submitted,

Filipa LeClair  
Meeting Recording Secretary