

Board Members  
Brian White, Chair  
Gibb Phenegar, Vice Chair  
Christina Oster, Clerk  
Tom Emero, Member  
Rori Stumpf, Member  
Carol Gould, Associate Member



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**TOWN OF MEDWAY**  
**COMMONWEALTH OF MASSACHUSETTS**  
**ZONING BOARD OF APPEALS**

**Wednesday, September 1, 2021 at 7:30 p.m.**  
**Sanford Hall**  
**155 Village Street Medway, MA**

**Meeting Minutes**

**Members Present:** Brian White, Chair; Gibb Phenegar, Vice Chair; Tom Emero, Member; Christina Oster, Clerk

**Members Participating Remotely:** Rori Stumpf, Member

**Members Absent:** none

**Also Present:** Barbara Saint Andre, Director, Community and Economic Development  
Morgan Harris, Administrative Assistant, Community and Economic Development

**Call to Order**

Mr. White called the meeting to order at 7:30 p.m. and read that this meeting is being broadcast and recorded by Medway Cable Access. He stated that member Rori Stumpf was participating remotely.

**Public Hearing**

**25 Winthrop Street** - The application is an **appeal** under M.G.L. chapter 40A section 8 seeking to reverse a Cease and Desist order issued July 1, 2021, by the Building Commissioner acting as Zoning Enforcement Officer, which prohibits the applicant from operating at the site.

The application was continued to September 22<sup>nd</sup> due to a recent ruling from the Superior Court and availability of Town Counsel.

**Motion to continue the public hearing for 25 Winthrop Street to September 22, 2021 at 7:30 p.m. by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 5-0**

**Tom Emero – Aye**

**Gibb Phenegar - Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

**Other Business**

- **39 Main Street Chapter 40B Development** - Application for modification of comprehensive permit to amend pavement details.

Brian Jones of Allen & Major Associates, the engineers working with Toll Brothers, explained that they are looking to modify the comprehensive permit dated August 1, 2019. He stated that the project is currently under construction, and they recently started installing the pavement. Tetra Tech, the Town's engineering consultant, and Town officials noticed that standard pavement was being used instead of the heavy-duty pavement that was originally on the plans. Mr. Jones stated that he believes this would be an insubstantial change according to 760 CMR. He explained that they are proposing to change the thickness of the binder from 2.5 inches to 1.5 inches which would not affect the look or function of the pavement, but would affect the lifespan. Recalling that the Fire Chief had questioned whether the pavement could support a 75,000 pound firetruck, he noted that this would not be an issue.

Mr. Phenegar noted that the plans also showed a change from an 8-inch subbase to a 12-inch subbase. Mr. Jones confirmed that the proposed pavement meets the state standards and that the additional subbase would help improve the longevity of the pavement. The Board agreed that this change did not meet the requirements to be considered substantial.

**Motion to find that the proposed modification of the comprehensive permit to allow for amendment of paving details is not substantial made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 5-0**

**Tom Emero – Aye**

**Gibb Phenegar - Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

- Consider amendments to ZBA regulations

The Board discussed the current rules and regulations as they are written and the proposed changes. Ms. Saint Andre pointed out three areas of proposed substantive changes. The first is to limit the scope of waivers of the regulations that the Board can grant. The current waiver language allows waivers of most sections of the regulations, she is proposing that only waivers of the application requirements be allowed. She stated that she believes that in practice, this is the only section that lends itself to the waiver process. Mr. Emero stated concern over limiting the Board's ability to create waivers, noting that there may be unforeseen circumstances that create a need for other waivers. Ms. Saint Andre noted that some of the procedures of the Board are governed by state law, but others can be changed. The Board agreed to leave this section of the regulations as-is.

The second area is the provision for Determination/Finding. Ms. Saint Andre believes the original intent of an application for a Determination/Finding related to nonconforming structures and uses. Any other zoning interpretations are to be made by the Zoning Enforcement Officer. It was clarified that removing this section would still allow anyone to appeal a decision by the Zoning Enforcement Officer, but would prevent anyone from circumventing the usual process. The Board agreed to the proposed modification of this section.

The third was the section on cost of collection, which is not needed because the applicant must pay any fees before the scheduled hearing. Mr. White recalled that this section was necessary when the Town

was responsible for recording the decisions. Ms. Saint Andre noted that another edit would remove the section that puts the responsibility of recording decisions on the Town. She also noted that the ramifications for not recording fall solely on the applicant. The Board did not think the Town should be responsible for recording decisions, and agreed that this section could be removed.

In addition to these three proposed changes, a number of minor edits and clarifications are proposed. Ms. Saint Andre will prepare a second draft of the changes for the Board to review.

### **Approval of Minutes**

- August 18, 2021

**Motion to approve the minutes for August 18, 2021 as presented made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of 5-0:**

**Tom Emero – Aye**

**Gibb Phenegar - Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

### **Upcoming Meetings**

- September 22, 2021
- October 6, 2021

### **Adjournment**

**Motion to adjourn the meeting at 8:05 p.m. made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 5-0**

**Tom Emero – Aye**

**Gibb Phenegar - Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

Respectfully submitted,

Morgan Harris

Administrative Assistant

Community and Economic Development

Edited by

Barbara J. Saint Andre

Director, Community and Economic Development