

**Town of Medway  
Zoning Board of Appeals Meeting  
Town Administrator Conference Room  
Town Hall  
155 Village St, Medway MA**

**MINUTES OF MEETING**

**April 12, 2017**

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

**Also present:** Mackenzie Leahy, Administrative Assistant, Community & Economic Development

Chairman Cole called the meeting to order at 7:30 PM.

**Citizen Comments:**

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

**Any other business that may properly come before the Board:**

None.

**Correspondence:**

Ms. Leahy stated that the Board was anticipating an application for a kennel license, which would be scheduled no earlier than May 17, 2017.

The Board is also anticipating what would be considered a “friendly” 40B application. Ms. Leahy stated that the DHCD application shows 48 units, but would prefer to discuss further details at a regularly scheduled meeting.

**Approval of Minutes:**

Chairman Cole provided a number of changes for the minutes of February 1, 2017.

***A motion to approve the February 1, 2017 Minutes with corrections as noted by Chairman Cole was made by Mr. White; seconded by Mr. Kennedy; approved unanimously.***

Minutes for February 15, 2017 and March 1, 2017 were not yet prepared for approval.

### **Upcoming Meetings:**

Chairman Cole noted that he would not be able to attend the May 17, 2017 meeting.

### **Deliberations:**

**7:35 P.M. – The Applicant, Asphalt Engineering LLC & Farm St. Property Management, seeks Variances from Section 5.4 Table 1 Section E to allow for a “Contractor’s Yard,” although not allowed in I-III, it is allowed in other industrial zones; and to allow for the accessory “Outdoor storage of materials and parking of vehicles and equipment associated with a business operated in a building on the premise,” where the future building and business is on the adjoining Bellingham Parcel, although all is shown as one lot on one deed, with respect to property located at 0-R Granite Street.**

Mr. White also stated that access was through Bellingham.

Mr. Arbeene concurred and stated that the use of the lot was very limited with it being landlocked and a split lot. Mr. Arbeene emphasized the need for markers around the pile and the 15 foot emergency access.

Mr. Kennedy stated he would also like to see the variance as a contractor’s yard and there would need to be a discussion about the frontage. He wanted to have a discussion on the access to the pile and the wetlands surrounding the lot.

Chairman Cole stated that there was no point in constructing a building on the Bellingham portion of the lot unless the applicant had the storage space for the use. The geography and wetlands leave the lot so that a bulk of the storage needs to be in Medway. The applicant needs permission from Medway before the go-ahead in Bellingham.

Ms. Leahy clarified two points: that in her staff letter to the Board, she had recommended the Board waiting to make a decision until Bellingham had made a decision, but the applicant had stated that the Bellingham Planning Board was waiting on Medway’s decision; and Contractor’s Yard by the Medway Zoning Bylaw definition does not require a building, whereas Outdoor Storage as an accessory use does require a building on the premises.

Chairman Cole stated that the property is awkward to use, and that the only road access is through Bellingham. The Medway lot has no frontage.

Mr. Kennedy stated that Outdoor Storage was an allowed use where Contractor’s Yard was not.

Mr. White asked Ms. Leahy for clarification on the storage aspect of a Contractor’s Yard. Ms. Leahy explained that storage was allowed as part of a Contractor’s Yard without a building; whereas Outdoor Storage as an accessory use does require a building and the applicant would require a variance where there was no building at the present.

Chairman Cole stated that his one concern for a Contractor’s Yard was that it would allow the applicant more than they are requesting. Ms. Leahy stated that the Board could put in place a condition to specify what would be allowed with the use variance. The Board could impose conditions relative to terms and operations for granting the use.

Chairman Cole stated that the Contractor's Yard was a permitted use on the Bellingham parcel. It would make sense to extend the use to the Medway parcel. Then the Board could impose conditions that there would be no building and would only be used for storage.

Ms. Leahy explained that the findings should say "parcel" rather than "lot," as the Medway Zoning Bylaw definition suggests that a Lot is "a single area of land in one ownership defined by bounds or boundary lines in a recorded deed or shown on a recorded plan."

***Chairman Cole moved to find that the applicant demonstrated circumstances relating to soil conditions, shape, or topography of the subject parcel and especially affecting the subject parcel and not generally affecting the zoning district in which it is located, specifically that the applicant demonstrated that the location of the subject parcel adjacent the Bellingham town line and with road access only through Bellingham, renders the parcel essentially unusable except in conjunction with the Bellingham Parcel.; seconded by Mr. White; approved unanimously.***

Mr. Kennedy asked that a finding include that there is no disturbance to the commercial businesses nearby, along with residential uses.

***Chairman Cole moved to find that the use of the subject parcel as a Contractor's Yard would not represent a major deviation from the permitted uses of the subject parcel, having regard to the fact that a Contractor's Yard is permitted in other industrial districts in Medway; that a Contractor's Yard is a permitted use on the Bellingham parcel; that there are no residential units or commercial entities close enough to suffer disturbance from the proposed use as a Contractor's Yard; and that all adjacent uses appear sufficiently distant from the subject parcel not to suffer significant disturbance from use of the subject parcel as a Contractor's Yard; seconded by Mr. White; approved unanimously.***

Chairman Cole asked the Board about parking of vehicles. Ms. Leahy stated that the applicant had said in the hearing that there would be no parking of vehicles on the Medway Parcel. Mr. White stated that the applicant had said there would be temporary parking or idling for loading and unloading materials. Chairman Cole proposed no overnight parking.

Chairman Cole stated that there needed to be a clear space of 15 feet around the periphery of the pile. Ms. Leahy stated that the current plans show a 10 foot gravel path on the east and north sides of the pile and asked for clarification in the Board intended to provide access on the western side which would be within the setback. Ms. Leahy also clarified that the Fire Chief had not asked for access all the way around the pile. Mr. White stated that he thought the Fire Chief was more concerned about emergency medical access and not fire access.

Mr. Kennedy noted that there are wetlands to the eastern side of the pile on the Medway Parcel.

Chairman Cole proposed that the Board specify that the storage shall be substantially located in accordance with the plan.

Mr. White stated that the markers should be permanent in the ground, something that would not move. Chairman Cole noted that the plan shows the stakes at 75 foot intervals. Mr. White wanted to see something permanent,

like granite or curbing in addition to the stakes that they show on the plans – something that wouldn't move over time. Mr. White stated that their wooden stakes would supplement the permanent markers as visuals for the applicant.

Chairman Cole asked if the applicant would be going to Conservation Commission. Ms. Leahy clarified that they would not because they are staying out of Conservation Commission jurisdiction.

Chairman Cole stated that he saw no issue with the proposed conditions in the letter from the Conservation Agent, apart from condition "E," which was addressed by the Board.

Mr. Kennedy asked if there needed to be a finding regarding the frontage through Bellingham. Ms. Leahy stated that granting of the use variance would not imply access through Medway, but the Board could make a finding relative to the fact that the Medway parcel is used in conjunction with the Bellingham parcel, and that the lot meets the frontage requirement through Bellingham.

Chairman Cole suggested that the variance would only be valid so long as the Bellingham Parcel was used as a Contractor's Yard. Ms. Leahy noted that the Board should be careful about including a condition which references the use of the Bellingham Parcel as a Contractor's Yard, as any reader besides the Board may interpret the language as the Board attempting to grant something outside of their jurisdiction or authority. Chairman Cole was concerned that if there was a use other than a contractor's yard on the Bellingham Parcel that involved storage of materials on the Medway parcel, that they could potentially use the lot for storage other than the intended materials. Mr. Kennedy noted that the application has the proposed use as gravel storage. The Board determined that including the limitation of the outdoor storage of gravel, specifically, would limit the Contractor's Yard use on the Medway parcel as to not exceed the intended granting of a variance.

Mr. Kennedy asked if a condition needed to be included for hours of operations or for complying with the Medway Zoning Bylaw Environmental Standards. Chairman Cole stated that he didn't believe they needed a condition because they need to comply with the regulations anyways.

***Chairman Cole moved to grant to the Applicant, Asphalt Engineering, LLC and Farm St. Property Management, a Variance from Section 5.4 Table 1 Section E of the Medway Zoning Bylaw to allow for a Contractor's Yard on the property located at O-R Granite Street, subject to the following conditions:***

- 1. Use of the Medway parcel shall be confined to the outdoor storage of gravel only and shall be confined to the area shown for that purpose on the plan, signed by the Board members;***
- 2. Permanent markers shall be provided at grade level at no more than 75 foot intervals to delineate the boundaries of the piles;***
- 3. The height of the storage piles shall not exceed 30 feet above grade;***
- 4. A clear space of at least 15 feet wide shall be maintained along the eastern and northern edges of the pile to provide access, as shown on the plan signed by the Board Members;***
- 5. Prior to construction, the applicant shall add erosion controls consisting of compost sock and trenched siltation fencing at the 100 foot buffer zone to the wetland resource;***
- 6. The applicant shall have the surveyors stake the 100 foot buffer zone line prior to the installation of the erosion controls to ensure they are placed in the appropriate location;***

- 7. The applicant shall provide a letter from a Professional Engineer stating that the erosion controls were in the appropriate locations along the 100 foot buffer zone or the applicant may authorize the Medway Conservation Agent to complete erosion control check prior to installation;**
- 8. During construction, the applicant shall protect all portions of the constructed stormwater system from un-stabilized slopes and land. This may be achieved through the placement of compost socks at the end of all portions of the completed stormwater system;**
- 9. The applicant shall be required that post-construction, a final As-Built for drainage grades and fire roads have been constructed per plan and this decision; and in addition, a letter from a professional engineer stating that during construction to the date of completion, there were no violations of any local and state laws as they pertain to this site;**
- 10. Post-construction and after submission of above required letter, a site visit will be schedule with Medway Town Officials to verify the statements of the Engineer in the letter;**
- 11. The applicant shall continue to maintain all stormwater management systems, noted in their Long Term Pollution Prevention Plan submitted to the Bellingham Conservation Commission, under Standard 3 of the MassDEP Stormwater Management Standards; and**
- 12. There shall be no overnight parking of vehicles.**

***The Board took no action on the request for a Use Variance from Section 5.4 Table 1 Section E of the Medway Zoning Bylaw to allow for “the accessory ‘Outdoor storage of materials and parking of vehicles and equipment associated with a business operated in a building on the premises,’ where the future building and business is on the adjoining Bellingham Parcel, although all is shown as one lot on one deed.”***

***Seconded by Mr. White; approved unanimously.***

#### **Adjournment**

***A motion to adjourn was made by Mr. White, seconded by Mr. Kennedy and approved unanimously. The Board adjourned at 9:31 p.m.***

Respectfully submitted,

Mackenzie Leahy  
Administrative Assistant  
Community and Economic Development