



TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 359-3027
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MEETING OF:
April 10, 2019
MINUTES

Members Present: John J. McNicholas, Chairman; Charles H. Peck, Associate Member; William McNiff, Member; Jared Gustafson, Associate Member

Members Absent: Michael W. Whitcher, Member; Jared Spinelli, Associate Member

Staff Present: Sarah Raposa, Town Planner; Marion Bonoldi, Recording Clerk

Others Present: Edward Cannon, Dianne Lambert, Kevin Stoddard, Sarah Brown, Jeff Kane, Donna Knott, Susan Monac, Cliff Monac, Dan Merrikin, Lori Pucci, Dave Pucci, Andrea Orio

Location: Medfield Town House, 2nd floor meeting room

At approximately 7:00 pm, Chairman Jack McNicholas called the meeting to order and announced the meeting is being recorded. Chairman McNicholas discussed the hearing protocols and referenced the handouts at the sign-in table. Chairman McNicholas explained that the sitting members of the Board are himself, Mr. Charles Peck, and Mr. William McNiff. Mr. Jared Gustafson is attending the meeting tonight in case of recusals. Mr. Gustafson will not be voting on the hearings.

Gary P. Lia (applicant/owner) seeks a special permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaw §300-16.5(6) for the construction of a single-family dwelling on a lot of more than 80,000 sf. The property is located at 55 Elm Street; Assessors' Map 34 Lot 013; RE Zoning District with Primary Aquifer & Well Protection Overlay.

At approximately 7:05 pm, Mr. Peck read the notice into record. M. Jeff Kane, LAL Engineering, representing the applicant, presented to the Board. Mr. Kane said the variance and the special permit have been granted to 55 Elm Street and a second lot has been created adjacent to the subject property. Mr. Kane explained this special permit is regarding putting a house on an 80,000 sq. ft. lot in a Primary Aquifer and Well Protection Overlay. Mr. Kane said there are two more permits needed from the Board of Health and he has been in touch with the peer engineering for the Board of Health. Mr. Kane said the requirements of the special permit have been met. Mr. Kane noted the Board had a site visit at the property previously. Mr. Kane said this request is more of a linear approach and he is looking to check the last box of requirements. Chairman McNicholas said there are no non-conformities and needs clarity as to why the applicant needs to come before the Board again. Mr. Kane said one of the town requirements is that if an owner is in a water protection district and is going to put up a house on an 80,000 lot; the owner needs a special permit. Ms. Sarah Raposa explained that under Section 16 for Well Protection Overlay and Primary Aquifer District. Ms. Raposa said this property is within 2,000 feet of a well and within the Primary Aquifer District. Ms. Raposa said the requirements are in Section 16.8 of the Zoning Bylaw. Mr. Kane said the special permit will trigger the Board of Health. Ms. Raposa said

she did touch base with the peer review engineer for the Board of Health. The engineer has already seen the project and is very familiar. Ms. Raposa did ask the distance to the well from the location and what type of infiltration is proposed for the site. Mr. Kane said the house is over 1,500 feet away from the well and has talked with the engineer about how run-off will be handled and most likely the impervious coverage will be reduced. Mr. Kane said testing at the site can now take place since the snow has finally melted.

Chairman McNicholas asked the Board if they have any questions. Mr. Charles Peck said it is a large lot with plenty of room and no danger of neighbors nearby. Chairman McNicholas asked if anyone in the audience had any questions or comments. No response was give. Chairman McNicholas noted that a previous site visit had been conducted.

At approximately 7:13 pm, Mr. Peck made a motion to close the public hearing. Seconded by Mr. McNiff. The Vote: 3-0.

Clifford A. Monac (applicant/owner) seeks a special permit and variance(s) under MGL Chpt. 40A §9 and §10 and/or Medfield Zoning Bylaw Sections 300-2.1, 300-16.6.B(2), 300-14.10, 300-14.11, 300-Attachments 2.1 and 3.1 for the purpose of creating 4 new building lots with infiltration systems and which will share a common driveway off of North Meadows Road. The property is located at 49 Dale Street; Assessors' Map 42 Lot 018; RS Zoning District with Primary Aquifer & Partial Well Protection Overlay.

At approximately 7:14 pm, Mr. McNiff read the notice into record.

Mr. Edward Cannon, attorney, represented the applicant. Mr. Cannon introduced the applicants and Mr. Dan Merrikin, Legacy Engineering. Mr. Merrikin presented plans to the Board. The plans are for four lots. Mr. Merrikin said this is an existing piece of property that actually consists of five lots. The lots were created in 2005. Mr. Merrikin referred to the created lots as lot 19, 20, 21, 22, and 23. Mr. Merrikin said he previously spoke with the Town Planner and the Building Commissioner originally 4 years ago. Mr. Merrikin said lots 19 and 20 are buildable as they currently sit. Mr. Merrikin said the "beige" areas noted on the plans are excluded from the lots because of the towns slope requirements. The slope requirement says any slope that is longer than 50 feet and steeper than 3 to 1 is excluded from lot area requirements. Lot 21 does not meet the requirements. Lot 23 has 2 isolated wetlands on it. Mr. Merrikin said lots were combined to bring the 5 lots into 4 lots. Mr. Merrikin said the applicant is proposing to reconfigure the lot lines and a common driveway is proposed.

Mr. Merrikin said the proposal is to have one common, 20 foot wide, driveway off of North Meadows Road as opposed to three driveways off of Grove and one off North Meadows Road. Mr. Merrikin said to bring in a common driveway, the lot coverage is affected. The affected lot coverage is the reason for the proposed reconfiguring of the lots. Mr. Merrikin referenced the plans and noted the houses on the plans are templates only. Mr. Merrikin noted the turnaround area on the proposed common driveway for fire truck access. Mr. Merrikin said common utilities are propose and would come in along the common driveway. Mr. Merrikin said the applicant has met with the water/sewer commission and has approval to extend the sewer line from the manhole at the intersection of Dale Street and North Meadows Road. Mr. Merrikin said the low pressure sewer main has been sized in case the town wants to extend further. Mr. Merrikin said the water connection would come off of Grove Street and there would be a hydrant at the end of the common driveway. Mr. Merrikin said a stormwater management system has been designed. Mr. Merrikin said the entire site is a depression; no run off water leaves the site. Mr. Merrikin referenced the isolated wetland on the plans and noted the certifiable vernal pool. Mr. Merrikin said all run off from impervious surfaces will be captured and infiltrating the run off into the ground. Mr. Merrikin said test kits have been at the site and the soil is sandy and gravelly and the groundwater is low. Mr. Merrikin said each house will have a roof run-off infiltration system and the driveway

will have a catch basin in it. The catch basin is a treatment unit (proprietary unit-1st offense unit); it pretreats the run-off and then the run-off goes into an underground infiltration system. Mr. Merrikin said they are specialized catch basins. Mr. Merrikin said the design has been in accordance with DEP standards and with the Board of Health stormwater regulations. Mr. Merrikin said an application with the Board of Health has been submitted. Mr. Merrikin said the BOH peer review consultant is in the process of review and Mr. Merrikin is not anticipating any problems.

Mr. Merrikin said he has had conversation with the Medfield Conservation agent. The applicant is proposing everything is “white” on the plans would remain undisturbed and placed into conservation restriction. This proposal is being anticipated by a requirement from the Conservation Commission as a requirement. Mr. Merrikin said the applicant is schedule for a hearing with the Conservation Commission but has not appeared yet.

Mr. Merrikin then said, those areas are the highlights of the presentation and would be happy to answer any questions.

Mr. McNiff asked if the fire department had any concerns about the common driveway. Mr. Merrikin said he feels the common driveway is a better design and concept. Mr. Merrikin said the fire department wants a 20 foot wide driveway with a turnaround at the end. The Department of Public Works and the fire department seemed to like the option in the plans best. Mr. Peck asked if the town owns the shoulder and if the town needs to give land for the driveway. Mr. Merrikin said no; the mouth of everyone’s driveway is owned by the town. Mr. Peck said the land drops sharply on this land. Mr. Merrikin said there is a 10-12 foot slope on the Route 27 side and a 25 – 30 foot slope on the Grove Street side. Mr. Merrikin said the more modestly sloped side was chosen as the access point to the site. Mr. Peck asked how a sewer system would work with the slope. Mr. Merrikin said the sewer will be gravity from the manhole and each home will have a grinder pump. The grinder pumps will pump out through a 2 inch pipe line. Mr. Merrikin said the pipe lines are privately owned/maintained and would not be the town’s responsibility. The pipe lines pump into the manhole. Mr. Peck asked if this is a subdivision. Mr. Merrikin said no; this is five ANR lots being reconfigured into four lots. Mr. Merrikin said there would be a home association for the four homes. The association would maintain the driveway and all of the utilities associated with it.

Chairman McNicholas asked how many lots the applicant would have without the common driveway. Mr. Merrikin said four buildable lots with reconfiguring the lot lines; with or without the common driveway. Chairman McNicholas said so you can do it without the common driveway. Mr. Merrikin said it is an option but in seeking the relief there is a financial hardship and from a planning standpoint it is a much less desirable option. Mr. Merrikin said the common driveway would require less fill and/or less costs.

Chairman McNicholas asked what a person standing on Grove Street looking towards North Meadows Road would see after development. Mr. Merrikin said you will see the roof tops of the homes and the backyards. Mr. Merrikin said the applicant is bound by the dimensions found in the bylaw so the building takes place at the bottom.

Mr. Cannon said the applicant feels this is a more elegant design and less intrusive way to develop these lots. Mr. Cannon said the applicant needs a variance for the common driveway and a special permit under section 16.

Mr. Cannon said there are three requirements for a variance. The requirements are (1) soil conditions, shape or topography, (2) substantial hardship- financial or otherwise, (3) if relief is granted it will not cause substantial harm to common good and not deviating from the intended purpose of the bylaw.

Mr. Cannon said the shape of the locus is unique. Mr. Cannon said the land is extremely pitched and no other lots in this area have the same topography. Mr. Cannon said there is a unique aspect to locus and it is due to the topography.

Mr. Cannon said a literal enforcement of the bylaw would cause a financial hardship. A literal enforcement would cause the proposal to consist of individual driveway and three would come off of Grove Street. Mr. Cannon said as Mr. Merrikin mentioned, a lot of fill would be needed as well as more construction work. Mr. Cannon said the individual driveways would not be as safe as a shared driveway. Mr. Cannon referenced a memorandum distributed to the Board outlining a similar case that the Appeals Court looked at. Mr. Cannon said the cost and the steep driveway would result in a hardship. Mr. Cannon said the purpose of the bylaw is to make sure there is safe access to the homes and that random, crazy lots are not created. Mr. Cannon said, these are the lots and the proposal is a less intrusive way for the purpose of the bylaw to be maintained.

For these reasons, Mr. Cannon asks the Board to grant the variance, from the driveway definition and the frontage definition, to allow the common driveway off of North Meadow Road.

Mr. Cannon said the next form of relief being requested is a special permit under section 16. Mr. Merrikin said the locus is located in the Primary Aquifer & Partial Well Protection Overlay; a stormwater recharge system is required and desired because it recharges the drinking water in town. An underground recharge system (large plastic containers that are buried in a field of stone) is required a special permit. Each home, of the proposal, would have an individual chamber system and the driveway would have its own dedicated underground system. There would be a total of 5 class 5 injection wells at the property.

Mr. Cannon said the special permit criteria under Section 16 (and under Section 14 also). Mr. Cannon outlined the special permit criteria for section 14 which outlines the general special permit criteria. Mr. Cannon said the propose use will not result in a public hazard that would increase traffic or parking in the neighborhood. Mr. Cannon said the proposed is the best way to limit traffic on Grove Street and Dale Street. Mr. Cannon said the proposed use will not have an adverse effect on property values in the neighborhood. Mr. Cannon suggest the homes to be built will be the same as the homes in the neighborhood, if not better, and will blend into the neighborhood nicely. Mr. Cannon said the proposed is architecturally consistent with the neighborhood. Mr. Cannon said the homes proposed are, generally, Colonial homes that will be approximately 3,000 sq. ft. with 2-3 car garages. Mr. Cannon said the proposed use will not create any safety or health issues in the neighborhood. Mr. Cannon said the common driveway proposed lessen interaction with the current neighborhood. Mr. Cannon said the proposed will not create any pollution to any public or private water facilities. Mr. Cannon said the proposed is town water and town sewer. Mr. Cannon said Mr. Merrikin has outlined the recharged infiltrations systems and the drainage is adequate up to a 100 year storm event. Mr. Cannon said the property has the benefit of public sewer so the requirements of 14.10E7 do not apply. Mr. Cannon said no excessive noise, light or odor will be omitted from the site. Mr. Cannon said the proposed is a residential use and is similar to the existing neighborhood. Mr. Cannon said no nuisance will be created and there is an adequate supply of water approved by the Water and Sewer Board and Board of Health.

Mr. Cannon outlined the special permit criteria under Section 16 of the bylaws. Mr. Cannon said there will be no excess of chemicals, pesticides or hazardous material outside of normal household use. Mr. Cannon said there will be no disposal of hazardous wastes and none will be generated at the site. Mr. Cannon said they are not aware of any objections for any other Boards in town and are not anticipating any. Mr. Cannon believes the proposal is in harmony with the purpose and intent of the Section 16 bylaw and will promote protection of the Aquifer district. Mr. Cannon said the proposed is appropriate to the topography for the site to be developed. Mr. Cannon said the proposed concept is the best way to conform to the topography without having to bring in fill. Mr. Cannon said the proposed will not have an adverse environmental impact during or after construction.

Mr. Cannon conclude that for all of the reasons under Section 14 and Section 16, it would be appropriate for the Board to grant the special permit to the applicant. Mr. Cannon said the applicant respectfully requests the variance and the special permit.

Chairman McNicholas said comments from various town Boards and officials have been submitted via email. Chairman McNicholas referenced an email from William Carrico, Fire Chief. Ms. Raposa confirmed Chief Carrico is looking for the hydrant location and the 20 foot driveway for access. Ms. Raposa read an email from Maurice Goulet, Director of Public Works. The email said, “regarding the most recent proposed submission for the sewer connection for the 49 Dale Street property, the Department of Public Works has no adverse comments or towards this proposal. The driveway location should be shown perpendicular to North Meadows Road and not meander along the right of way towards Grove Street. Also, this opening should not be designed directly across from the proposed 40B opening and should move as far away from the intersection as possible, not interfering with the existing drainage culvert. At the last Water and Sewer Board meeting, it was agreed by the members present to the same and left to the discretion of this department.”

Mr. Merrikin referenced the plan and showed the driveway for the proposed 40B project. Mr. Merrikin believes the opening is approximately 300 feet from the intersection. Chairman McNicholas noted the sewer opening is further from the intersection than the proposed 40B. Chairman McNicholas asked the Board any questions. Mr. Peck said the homes are drawn in on the plans and is assuming zoning relief will not be need for the homes. Mr. Merrikin said setback relief will be needed. Chairman McNicholas asked if any fill will be brought in, at all. Mr. Merrikin said there will be some fill brought in however; the fill will not nearly be as much if there were three separate driveways. Mr. McNiff asked for the approximate slope of the entrance. Mr. Merrikin said 8% - 9% slope. Chairman McNicholas asked if there are any landscaping plans for along Grove Street. Mr. Merrikin said the Grove Street side has a large slope and they have specific plan. Mr. Merrikin said that would be up to each individual property owner. Chairman McNicholas said this is being built as a development even though it is not a subdivision. Chairman McNicholas asked why this is not a subdivision. Mr. Merrikin said streets do not need to be laid out and the frontage is there.

Chairman McNicholas asked the audience for any comments or questions.

Mr. Kevin Stoddard, 6 Baker Road, asked how many of these homes could be built for 25% affordability. Ms. Raposa said it doesn't apply because the lots already exist. Ms. Raposa said new lots are not being created.

Ms. Donna Knott, 9 Charlesdale Road is concerned about the common driveway on Route 27 because of Medfield Meadows, the new apartment complex at the Goddard School and the new pre-school at the same intersection. Ms. Knott feels there are a lot of new entrances on Route 27 in a short period of time. Ms. Knott is concerned about the traffic and where the school bus stop will be.

Mr. Kevin Stoddard, 6 Baker Road, said when the applicant bought the piece of land it existed the same way it does today. Mr. Stoddard said, in terms of financial relief, it is not right to come to the town and say the value cannot be maximized without variances. Mr. Stoddard said if home fit there without variances, the town shouldn't be issuing them. Mr. Stoddard doesn't believe it is hardship relief, but rather maximizing the land for profit. Mr. Stoddard said the town has nothing to gain by giving he variances.

Mr. David Knott, 9 Charlesdale Road, said when the applicant was negotiating with a developer to put in a gigantic apartment complex on that land, there was no consideration for financial impact or concern for the town, neighbors or anything. Mr. Knott said now that the shoe is on the other foot, he would not be in favor of helping out the applicant with financial relief especially since there was not consideration for the town when it

was the other way around. Chairman McNicholas said each application rest totally on its own merit. Mr. Knott said he understands.

Mr. Kevin Stoddard, 6 Baker Road, said with the 36 units going in across the street, 56 units at the Legion and lots of existing traffic, where will the bus stop be. Mr. Stoddard said there will be a lot more activity at these intersections in the 24 months to come. Ms. Raposa noted there were no comments given from the police department. Ms. Raposa suggested a site visit for the Board. Mr. McNiff asked for the distance from the intersection. Mr. Merrikin said approximately 400 feet. Mr. Merrikin noted the traffic study submitted by Medfield Meadows noted no impact from their driveway and this proposed project is further from the intersection. Chairman McNicholas said during the application process for the 40B at 41 Dale Street there have been traffic impact studies and a lot of research. Chairman McNicholas noted the improvements going in at the intersection.

Mr. Kevin Stoddard, 6 Baker Road, asked for the distance between the driveways. Mr. Merrikin responded about 100 feet. Mr. Stoddard asked where the bus stop is. Chairman McNicholas said due to the 40B project, the bus stop is being relocated on to Dale Street. Ms. Raposa said there has been no comment from the police department. Mr. Stoddard asked if the new police chief is waiting to review this application. Ms. Raposa said no.

Mr. Joseph Gillis, 4 Grove Street, said he is not entirely in favor of the project but his concerned about clear cutting of trees. Mr. Gillis doesn't believe trees will be able to remain on the Grove Street side. Mr. Gillis said there are about 35 large trees hanging due to the land slope. Mr. Gillis would like to see all of the trees cut down but a hedge added to the Grove Street side. Mr. Merrikin said the applicant would be willing to plant some trees on the Grove Street side, along the shoulder. Mr. Gillis said he believes the applicant applied once before for a special permit for a single lot and was denied. Mr. Gillis asked what the reason was for denial. Mr. Merrikin said it was a different special permit that pertained to the lot area and the slope issue. Mr. Merrikin said that after reading the denial decision, the Board, at the time, felt there was a lot of uncertainty and detailed drawings were not provided.

Mr. David Pucci, 38 Charlesdale Road, said he is happy to see the conservation element. Mr. Merrikin said there is a separate permitting process for the isolated wetlands. Mr. Merrikin said the applicant will be before the Conservation Commission regarding a permit to work within 100 feet of the wetlands. Mr. Merrikin said abutter's notice will go out.

Chairman McNicholas said it is the Boards job to enforce the bylaws or to determine if the standards are met for a variance. Chairman McNicholas said it is important for the Board to hear all comments and concerns. Chairman McNicholas said the lots can be developed. The lots can be developed without relief from the Zoning Board of Appeals. The Board is trying to determine what is the the best way to develop the lots. Chairman McNicholas noted the concerns about the bus stop are up to the School Department and the Police Department.

Mr. David Knott, 9 Charlesdale Road, there is a significant grade difference and believe the slope is large than 30 feet. Mr. Knott said regardless of whether the common driveway is on North Meadows or individual driveways are on Grove Street, fill will be need or owners will be looking at the slope in their back yard. Mr. Merrikin said the applicant is not proposing to eliminate the slope. The slope will remain and the backyards will be looking at the slope. Mr. Merrikin said the wetlands sit higher than the rest of the land. Mr. Merrikin said currently runoff does not go into the wetlands. Mr. Merrikin said in the proposed plan the wetlands will be maintained. Mr. Knott referenced a storm drain from 2006. Mr. Merrikin is unsure of a storm drain but said there is an existing drain pipe that goes from the property, across the street and into the DPW property. Mr. Merrikin said the pipe serves no purpose and water never goes into it. Mr. Merrikin said the pipe was

referenced in Maurice Goulet, Director of Public Works, email. Mr. Merrikin said the proposed is not affecting it, it is not being used. Mr. Merrikin said the drain pipe will be plugged. Mr. Knott said the storm drain he is referring to came down Dale Street along the sidewalk. It is believed to be in front of 2 Grove Street. Mr. Merrikin said there is no drain system at the property currently. Ms. Raposa said this is a separate issue for the Department of Public Works. Mr. Cannon said the intent of the proposed is to impact Grove Street as little as possible. Ms. Andrea Orio, 8 Grove Street, appreciates the comments for landscape buffer on Grove Street and wonders how it happens. Ms. Raposa is hoping the applicant can propose a landscape plan for the Grove Street side to submit to the Board. Mr. Merrikin said yes; they can do that. Mr. Peck would like a site visit scheduled. Mr. McNiff would like to be able to visualize where the houses are going and if the landscape plan could be discussed at the site visit. Mr. Merrikin said he needs one week to complete the landscape plan.

Mr. Joseph Gillis, 4 Grove Street, asked how long the project will take from start to finish. Mr. Merrikin said it is hard to say because the lots would be for sale. Mr. Merrikin said the common driveway would take a few months and then the lots would be for sale. Mr. Merrikin said Mr. Monac (applicant) is not planning, at this time, to build the houses on these lots. Chairman McNicholas said there would be four individual landowners, building houses of their own choosing. Mr. Merrikin said correct; the applicant would build the infrastructure. Chairman McNicholas said this makes it more difficult to keep the homes more aesthetically pleasing to the neighborhood. Ms. Raposa said the applicant has already said the homes would be 3,000 sq. ft. Colonial homes with 2- 3 car garages. Ms. Raposa suggests the applicant adding more information regarding the house's specification for the Board's comfort. Ms. Raposa suggests adding the house specifications to the conditions. Ms. Knott, 9 Charlesdale Road, asked if the landscaping would be added to the conditions. Chairman McNicholas said yes.

At approximately 8:22 pm, Mr. Peck made a motion to close the public hearing subject to landscape plans, comments from police department, comments from school department, description of driveway in relation to the property across the street, house specifications and site visit. Seconded by Mr. McNiff. The Vote: 3-0.

The site visit was scheduled for Friday, April 26, 2019 at 8:30 pm. Ms. Raposa will distribute landscape plans to the Board once received, post the site visit and reach out to the police department and the school department.

Discussions/Deliberations/Decisions

- **55 Elm Street** – At approximately 8:23 pm, Mr. Peck made a motion at approve the special permit for 55 Elm Street. Seconded by Mr. McNiff. The Vote: 3-0.
- **49 Dale Street** – Mr. Peck said he disagrees that there are 5 lots; only 4 are buildable. Ms. Raposa said that is true. Mr. McNiff said he assumed they were building houses. Mr. Gustafson asked what the steps for reconfiguring the lots will entail. Ms. Raposa said the applicant will have to go before the Planning Board to get the update ANR endorsed. Chairman McNicholas said he understands why the abutters are concerned and it is important for them to be heard. Chairman McNicholas feels it is a positive variance. Mr. Peck said the proposed it better than the driveways going on to Grove Street. Mr. Peck said the application in 2006 was incredibly disorganized. Mr. McNiff asked if the amount of fill can be limited. Ms. Raposa said no; the bylaw doesn't allow it.

At approximately 8:35 pm, Mr. Peck made a motion to adjourn the meeting. Seconded by Mr. McNiff. The Vote: 3-0.

Respectfully Submitted,

Sarah L. Raposa, Town Planner, and Marion Bonoldi, Recording Clerk