



TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

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

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MEETING OF:
April 22, 2019
MINUTES

Members Present: John J. McNicholas, Chairman; William McNiff, Member; Michael W. Whitcher, Member; Jared Spinelli, Associate Member; Jared Gustafson

Members Absent: Charles H. Peck, Associate Member

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

Others Present: Cliff Monac, Chris Alphen, John Kelly, Geoff Engler

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.

Continued public hearing on the 40B application from Medfield Meadows, LLC (John P. Kelly), with respect to property located at 41 Dale Street (Assessor Parcel ID: 42-019) in the RS Zoning District with Primary Aquifer Overly District for 36 non-age restricted units comprised of 24 one-, two-, and three-bedroom rental units in multiple buildings and 12 two- and three-bedroom condominium (ownership) units in multiple buildings with associated driveways, roadways, parking, and infrastructure on approximately 2.93 acres; with 25% affordable. (Continued from 12/13/18 & 1/10/19 & 2/13/19 & 3/14/19)

Chairman McNicholas reviewed the notice and hearing procedures, and topics for discussion. Chairman McNicholas noted Mr. Paul Haverty is not attending however, Mr. Chris Alphen is present.

Mr. Alphen said the hope for tonight's hearing is to come closer to formalizing a decision and make sure the Applicant doesn't have any concerns about the final wording of the decision. Mr. Alphen feels it would be best to address the topics discussed in emails being circulated. Mr. Alphen said if there are no objections after discussion the public hearing could be closed tonight.

Chairman McNicholas said he has been monitoring all of the email circulated regarding the last few issues. Chairman McNicholas said he believes there are about 3 issues that need discussion. Chairman McNicholas said they should discuss the outstanding issues and then review the waivers. Chairman McNicholas said if there are no further objections, at that point, a vote to close the hearing and possibly vote on the comprehensive permit decision, subject to changes made tonight.

Geoff Engler, SEP LLC, said his client is by and large fine with the draft decision. Mr. Engler said there have been several clarifying emails passed around. Mr. Engler said the outstanding issues are regarding the snow management plan and timing of posting financial contributions regarding traffic condition improvements. Mr. Engler said he believes his client is comfortable with the waivers but believes BETA is working off an old set of waivers. Mr. Engler said a couple of BETA's questions indicated as much. Mr. Engler believes BETA was looking at the cover sheet of the architectural plans which has since been updated. Mr. Engler said should the hearing be closed tonight, there is still 20 days to dot "I's" and cross "T's," however any issues of substance should be discussed tonight.

Chairman McNicholas said 3 items were raised in email regarding conditions and asked Mr. Engler to discuss those conditions. Mr. Engler said his client has no issues with any changes that were introduced in the draft except Condition E15 on page 12. Mr. Engler read "Applicant shall provide Town with an updated snow management plan to include provisions for removal of snow from the site, as necessary. The updated plan should also include greater detail for on-site operations, particularly how snow will be moved to the designated storage areas." Mr. Engler said his applicant has no issue with the condition however they suggest Condition E15 should reflect the occupancy permit. Mr. Engler said his client will have unlikely selected a management company by then and these are somewhat specific operational considerations. Mr. Engler said his client is comfortable to have the town have the leverage to withhold the occupancy permit. Mr. Engler said his client will be able to provide exact specificity regarding snow management later in the process. Mr. Michael Whitcher and Mr. William McNiff agree with the suggestion. Chairman McNicholas asked Mr. Alphen to insert "prior to the issuance of the first occupancy permit" into the wording of Condition E15.

Chairman McNicholas said Mr. Matthew Crowley, BETA Engineering has emailed the request for clarification of Conditions E16 and E17. Chairman McNicholas read Condition E16, "Trash and recycling shall be via dumpsters on the Property as shown on the Approved Plans." Mr. Crowley suggested the adding of the words "rental units" pertaining to dumpsters and "curbside pickup" for the for-sale units. Mr. Engler said if the town feels more comfortable inserting that language, his client doesn't have an issue with it. Mr. Alphen said he will clarify the language of the condition.

Chairman McNicholas read Condition E17 saying, "Soil textures in the area of the subsurface systems to be confirmed on the Property during construction. Applicant shall also confirm that the seasonal high groundwater elevations are below the bottoms of the recharge system." Chairman McNicholas said the comment from Mr. Crowley, BETA engineering, said the conditions should include that a confirmation of soil textures and groundwater elevation is done by and Agent of the Town. Mr. Engler said his client doesn't have an issue with the comment however, he feels the comment is a little vague in that he assumes the town doesn't want the agent to perform the work but to only review it. Mr. Engler suggests Mr. Alphen indicates "submit to designated agent of the town for review."

Mr. Engler reviewed the issues regarding Traffic Safety which had the most mark up in the draft decision. Mr. Engler said his client doesn't have an issue with any clarification in the decisions except when to submit the money contribution. Mr. Engler said he and Ms. Raposa exchanged some emails. Chairman McNicholas asked if Mr. Engler is discussing Condition F5. Mr. Engler said yes. Ms. Raposa said she was referring to Condition F3 and is more concerned with Condition F3 than Condition F5. Chairman McNicholas said they will discuss Condition F5 first and then circle back.

Mr. Engler said their point is the big difference in posting money as part of a building permit than after construction loan closing, which won't happen until after a building permit is issued. Mr. Engler said his client has every intention and has represented that his client will do the traffic improvements, and the town has the leverage of withholding an occupancy permit. Mr. Engler said his client is asking the \$80,000 from F3 and F5 to be bumped to a condition of the occupancy permit; rather than the building permit. Mr. Engler said he also understands that Ms. Raposa wants the Road Safety Audit (RSA) referenced in Condition F3. Ms. Raposa apologized for any confusion in previous discussions. Ms. Raposa explained that the town has a window of opportunity with the State right now, which can sometimes be a bit fleeting. The State is having conversations with the town about the West Street Bridge and the West Street intersection; which is a high crash area. Ms. Raposa said if we can move forward with getting the Road Safety Audit complete, so that the town has some stake in the game with the State in getting some intersection improvements, it would be greatly appreciated. Ms. Raposa said part of Condition F3 was the RSA and the other part was Opticom. Ms. Raposa said the Opticom portion of the condition could be delayed.

Chairman McNicholas asked if there is a cost associated with F3 and F4; a cost is not noted in the draft decision. Ms. Raposa said there is a cost that the Applicant is undertaking. Ms. Raposa said the cost is part of Jaklyn Centracchio, BETA engineering, packet dated April 16, 2019. Ms. Raposa said there is a breakdown that Vanasse & Associates indicated on the third page. Ms. Raposa referenced the first bullet point. Ms. Raposa read, "A - Facilitated the completion of a Road Safety Audit and to be conducted in accordance with Mass DOT standards. The RSA shall be completed prior to the issuance of the first certificate of occupancy for the project (Applicant to complete). B- Provide funds to the town of the installation of Emergency Vehicle Preemption (EVP) Opticom System." Ms. Raposa noted the EVP is \$2,000 for the design and \$18,000 for the construction. Ms. Raposa said the first part (A) is time sensitive for the DPW and the second part (B) is not time sensitive.

Mr. Alphen asked Ms. Raposa if the Applicant needs to provide any consideration in Condition F3. Ms. Raposa said no; the town is asking for the report. Mr. Alphen asked Ms. Raposa if she would like Condition F3 to be met before the building permit. Ms. Raposa said yes. Mr. Alphen asked Ms. Raposa if she would like Condition F4 to be met before the building permit. Ms. Raposa said she has no preference for timing on Condition F4. Mr. Alphen asked Ms. Raposa if she was okay with Condition F5 to be met with an occupancy permit. Ms. Raposa said she has no preference for Condition F5.

Mr. Whitcher suggested adding a date from the closing for the posting of money as opposed to prior to the occupancy permit. Mr. Engler said he suggested the same. Mr. Engler said he suggested 90 – 100 post construction loan closing because then it is a capitalized cost. Mr. Engler said this project is going to be a minimum of 14 months before the certificate of occupancy. Mr. Engler said, to Mr. Whitcher's point, the wording of the Condition being adjusted to 90-100 days post construction loan closing would allow the Applicant to capitalize the cost and the town/general contractor to have enough time to complete the work. Mr. Engler also noted his client should not be having renters/owners moving in until the traffic safety improvements are completed. Mr. Alphen noted he doesn't like to condition a condition on a financial achievement of an applicant that may or may not be financial able to get a commitment from a lender. Mr. Alphen would adjust the wording to be either 120 days after the closing of the construction loan or the occupancy permit; whatever comes first. Mr. Engler said if 120 days from building permit issuance was used; that is enough time for a reputable person like his client and then the town would have approximately 8-9 months to organize the work. Mr. Alphen believes that wording would work. Ms. Raposa agreed.

Chairman McNicholas confirmed Condition F5 should be changed to 120 days from any building permit and no occupancy permit will be issued without the payment being made.

Chairman McNicholas said Condition F5 requires \$60,000 and Condition F3 requires \$20,000. Ms. Raposa noted that this applicant is making a significant contribution to the town of Medfield. Chairman McNicholas is asking if the amount should be reflected in Condition F3; in the draft decision no amount is noted. Mr. Engler said his client has no preference. Chairman McNicholas said he believes they should air on the side of clarity. Ms. Raposa said it might be worth plucking the wording in the Vanasse & Associates letter. Ms. Raposa said, to be specific, Ms. Jaklyn Centracchio, Beta Engineering, in referencing Condition F5, was being cautious to say, “the Applicant, prior to the issuance of any building permit, shall be responsible for providing all survey and design work associated with the following traffic mitigation AND shall contribute \$60,000.” Ms. Raposa said Ms. Centracchio wanted to be specific that the applicant is responsible for the design and survey work and then town is responsible for actually getting the work done with contractors. Ms. Raposa said in section G, Ms. Centracchio recommends “the applicant shall review the pedestrian signal timing.” Mr. Engler said his client has no issue with this however, what if the applicant has completed everything required and the town has not completed their work. The applicant does not want the occupancy permit held for things beyond control. Ms. Raposa said the 120 days give the town more wiggle room to coordinate contractors.

Mr. Enlger said that was all of the comments on the conditions. Chairman McNicholas asked the Board if there were any other questions/concerns on the conditions. No response given. Chairman McNicholas asked if Ms. Raposa had any other questions/concerns on the conditions. Ms. Raposa said no. Chairman McNicholas asked if Mr. Alphen is he had any other questions/concerns on the conditions. Mr. Alphen said no.

Chairman McNicholas asked to move the discussion to the waivers. Mr. Whitcher asked Mr. Kelly which will be built first, the for-sale or the rental units. Mr. Kelly said he believes the for-sale units. Mr. Whitcher confirmed there are affordable units in the for-sale units. Ms. Raposa said yes; 3 affordable units and 9 market units. Chairman McNicholas asked Mr. Kelly if he would be doing the construction himself. Mr. Kelly said he will partner with a developer.

Chairman McNicholas asked Mr. Engler and Mr. Kelly if in their review of the draft decisions were the latest waiver updated included. Mr. Engler said yes; however waivers 2, 9, 13 are not necessary. Mr. Alphen said the Board discussed leaving them in. Ms. Raposa agreed; leave them in.

Mr. Alphen said the consultant found 306.2J (regarding landscaping), 300-14G, 300-16.B2 in need of edits. Mr. Alphen asked Mr. Engler if he agrees with the consultants edits. Mr. Engler reviewed and said they are correct and accurate.

At approximately 7:36 pm, Mr. Engler said he believes what is now in the decision reconciles with the stand alone waiver request.

Chairman McNicholas asked if earth removal was planned. Mr. Kelly said the earth will be moved around for grading but it is not believed that any will be added or removed.

Mr. Whitcher asked when the building permits clock starts. Mr. Whitcher referenced a former decision modification when a builder needed a foundation permit earlier due to the timing with the weather. Mr. Whitcher was asking the Board if they remember the specific reasons for the modification; in case it should be

added here. The Board couldn't remember specifics however; Mr. Alphen asked Ms. Raposa to ask the Building Commissioner and Mr. Alphen can adjust the decision if necessary.

Chairman McNicholas asked if anyone in the audience has a comment or question. No response given.

At approximately 7:44 pm, Mr. McNiff made a motion to close the public hearing. Seconded by Mr. Whitcher. The Vote: 3-0.

Mr. Alphen feels as though the draft decision is strong and the decision can be voted on tonight, if the Board is comfortable.

At approximately 7:45 pm, Mr. Whitcher made a motion to approve the 40B application from Medfield Meadows, LLC (John P. Kelly), located at 41 Dale Street, subject to the modifications and conditions discussed. Seconded by Mr. McNiff. The Vote: 3-0.

Administrative:

- **Minutes 2/13/19** (JM, WM, MW) - Mr. Whitcher made a motion to approve the minutes from February 13, 2019. Seconded by Mr. McNiff. The Vote: 3-0.
- **Minutes 3/13/19** (JM, MW, JG) – Mr. Whitcher made a motion to approve the minutes from March 13, 2019. Seconded by Mr. Jared Gustafson. The Vote: 3-0.
- **Minutes 3/14/16** (JM, MW, JS) - Mr. Whitcher made a motion to approve the minutes from March 14, 2019. Seconded by Mr. Jared Spinelli. The Vote: 3-0.

ADJOURNMENT – At approximately 7:55 pm, Mr. Whitcher made a motion for adjournment. Seconded by Mr. McNiff. The Vote: 3-0.

Respectfully Submitted,

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