



# 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:  
**January 9, 2019**  
MINUTES

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

**Members Absent:** Michael W. Whitcher, Member

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

**Others Present:** Nate Razza, Jessica Razza, Gregory Axelrod, Bill Massaro, David Maxson, Carl Gehring, Dave Pucci, Lori Pucci, David Sharff, Cliff Monac, Don Haes, Patrick Nysten, Doug Sheadel, Keith Vellante, Matt Parillo

**Location:** Medfield Town House, 2<sup>nd</sup> 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. Peck, and Mr. Spinelli. Mr. William McNiff is attending the meeting tonight in case of recusals. Mr. McNiff will not be voting on the hearings present unless needed.

**Gregory Axelrod (applicant) and Apazidis Vasilios (owner) seek a special permit under MGL Chpt 40A §9 and/or Medfield Zoning Bylaw §300-14.10.H.(2)(d) to allow a Home Occupation (baked goods). The property is located at 27 Charlesdale Road in the RS Zoning District with Primary Aquifer & Well Protection Overlay and is shown on Assessors' map 41 as lot 032.**

At approximately 7:05 pm, Mr. Charles Peck read the notice into record. Gregory Axelrod, applicant, said this request for special permit is for sole purpose of baking cookies. Mr. Axelrod explained the cookie will be mostly sold at farmers markets in the area and special purchases. The cookies will be delivered; no purchasers will be coming to the residence. Mr. Axelrod said there will be no parking issues. Mr. Axelrod said the cookies are “high-end cookies.” Chairman McNicholas asked if the existing kitchen at the residence will be used. Mr. Axelrod responded yes and that the property owner has signed the application acknowledging permission.

Mr. Kevin Stoddard, 6 Baker Road, asked if any commercial vehicles will be used and if there is a “cap” the town will put on the permit in case the business takes off. Mr. Axelrod said that no commercial vehicles will be used and it is illegal to have employees in a residential kitchen. Chairman McNicholas said the business would need further review if it went outside the scope of the special permit. Mr. Stoddard asked when or how the special permit terminates. Ms. Sarah Raposa explained that the special permit is recorded and not transferable to another party. The permit is for this applicant not the residence. Mr. Dave Pucci, 38 Charlesdale Road, asked

how to review the applications prior to the hearings. Ms. Raposa explained that the applications are available online the Town's website or townspeople can view the public file in the zoning office. Mr. Axelrod said the cookies are hand painted and will cost approximately \$3 - \$4 per cookie. Mr. Pucci asked if the cookies are "conventional cookies" or do they contain edible marijuana. Mr. Axelrod said they are conventional cookies. Mr. Pucci asked if this is a retail business. Mr. Axelrod said no and there will be no signs on the property.

Chairman McNicholas asked for further comments or questions from the Board or the audience. No further comments/questions given. Chairman McNicholas asked the Board if a site visit was necessary. Mr. Peck and Mr. Jared Spinelli felt a site visit was not necessary. At approximately 7:19 pm, Mr. Spinelli made a motion to close the hearing. Seconded by Mr. Peck. The Vote: 3-0.

**Jessica and Nathaniel Razza (owner/applicants) seek a special permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaw §300-9.1.C.2. and the Table of Area Regulations referenced in §300-6.3 of the Zoning Bylaw that the proposed work consisting of an 18'x22' rear addition and deck will not be substantially more detrimental to the neighborhood than the existing nonconforming nature, specifically lot coverage; and/or a variance from Chapter 300 Attachment 3. The property is located at 138 Harding Street; Assessors' Map 72 Lot 020; RT Zoning District.**

At approximately 7:20 pm, Mr. Jared Spinelli read the notice into record. Mr. Spinelli said that he has "crossed paths professionally" with the applicant, Mr. Nathaniel Razza, and would like to disclose this for the record. Mr. Spinelli said he would recuse himself from the hearing if the Board felt it was necessary. Chairman McNicholas asked the Board and the audience for any objection to Mr. Spinelli sitting on the Board for this hearing. No objections were given. Mr. Spinelli remained on the Board for the hearing.

Mr. David Sharff, architect for the applicant presented. Mr. Sharff said he is working with the Razza's who own a 3-bedroom ranch located at 138 Harding Street. The Razza's would like to add a fourth bedroom (18' x 22') off the back of the house. The addition will not be seen from the street. Mr. Sharff said the applicant will also be updating windows and doing some interior changes within the existing footprint of the home. Mr. Sharff said the lot coverage with the addition will exceed the 15% allowable however; the removal of concrete pathways, walkways and padding will fix the issue. Mr. Sharff said that once the concrete surfaces are removed the new lot coverage will be .1% less than what is at the residence currently. Chairman McNicholas asked if a new deck will be added. Mr. Sharff said the existing deck will be removed and a new deck will be built. Ms. Raposa said that after her review of the application and discussions with the building department, she feels this is straightforward. Chairman McNicholas confirmed that with the removal of the concrete walkways and concrete padding the impervious coverage will be corrected. Mr. Sharff said yes.

Chairman McNicholas asked if any audience member had questions or comments. No questions/comments were given. Chairman McNicholas asked the Board if a site visit is necessary. Mr. Peck and Mr. Spinelli felt that individual drive-bys of the property would be appropriate. At approximately 7:32 pm, Mr. Spinelli made a motion to close the hearing. Seconded by Mr. Peck. The Vote: 3-0.

**Gary P. Lia (applicant/owner) seeks a variance under MGL Chpt. 40A §10 and/or Medfield Zoning Bylaw §300-2.1 for the use of the existing driveway as a common drive for the existing lot and the newly created ANR lot and a special permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaw §300-6.2.T for the proposed new side lot line setback from the existing in-ground swimming pool. The property is located at 55 Elm Street; Assessors' Map 34 Lot 013; RE Zoning District with Primary Aquifer & Well Protection Overlay.**

At approximately 7:30 pm, Mr. Peck read the notice into record. Mr. Jeff Kane of LAL Engineering presented for the applicant. Mr. Kane said the applicant/owner is a retired couple. The Lia's volunteer in the community and have family in the area. They would like to stay at the property and feel that having family live next door would be a help. The Lia's daughter has agreed to move in. Mr. Kane disclosed that he is the son-in-law, and will be living at the property as well. Mr. Kane said the ANR was created in October. The main issue is access to the lot. The applicant is asking for a variance to create a shared driveway and a special permit for the new lot line which will be one foot from the pool. Mr. Kane distributed a plan to the Board showing the new driveway. Mr. Kane noted the idea soil conditions and high plateau location. Mr. Kane feels this property is the only one in the area with this topography and wants to preserve it. Mr. Kane said the biggest hardship would be the monetary cost to create a new driveway. Mr. Kane also said that by creating a shared driveway the traffic patterns would stay the same. The approach to the home is beautiful from the street and the applicant would like to keep it. Mr. Kane noted the new home will not be seen from the street or abutters. Mr. Peck asked how wide the new shared driveway would be. Mr. Kane said standard size; approximately 12 feet. Ms. Raposa noted the Planning Board approved the ANR and as Mr. Kane stated, the applicant could provide their own access to the property however; as Mr. Kane explained, the reason they are here it the zoning's definition of frontage requires access to the dwelling. Mr. Peck noted that it is a bit odd to have a lot line so close to an existing pool. Mr. Kane agrees but said it is not an issue because the lot lines will be "blurred" due to family owning both dwellings. Chairman McNicholas said that the property line could be an issue later if either owner decides to sell. Mr. Kane said that if it does become a problem in the future, the pool would need to be removed.

Chairman McNicholas asked for any questions or comments from the audience. No further questions/comments were given. Chairman McNicholas asked the Board for a site visit. A site visit is scheduled for Saturday, January 12, 2019 at 8:30 am. At approximately 7:50 pm, Mr. Spinelli made a motion to close the hearing, subject to the site visit. Seconded by Mr. Peck. The Vote: 3-0/

**Cellco Partnership d/b/a Verizon Wireless (Applicant) and Town of Medfield (owner) seek a Special Permit pursuant to Sections 300-17.1 and 300-14.10, and other applicable sections of the Town of Medfield Zoning Bylaw, M.G.L. Chapter 40A, and the Telecommunications Act of 1996, 47 U.S.C. 332(c)(7)(B), all rights reserved, for the installation of a Personal Wireless Communications Facility on an Existing Water Tank, including Antennas on the Tank's roof and Radio Equipment and a Stand-by Power Generator on-grade at the base of the Tank surrounded by a solid fence and landscaping. The property is located at 45 Hospital Road; Assessors' Map 71 Lot 017; BI/RT Zoning District on property owned by the Town of Medfield (MSH Water Tower).**

At approximately 7:51 pm, Mr. Spinelli read the notice into record. Mr. Carl Gehring, Gehring & Associates LLC – agent for applicant presented to the Board. Mr. Gehring introduced other hearing attendees for Verizon. They included Mr. Patirck Nysten -Verizon Wireless's Real Estate Development, Dr. Don Haes – Certified Health Physicist, Mr. Doug Sheadel – Acoustical Expert and Mr. Keith Vellante – Radio Frequency engineer. Mr. Gehring provided a "run through" of the contents of the application.

Mr. Gehring referenced "Tab 1" which is the special permit application. Mr. Gehrig noted that no variance is needed. Mr. Gehring said "Tab 2" offers supporting documents to the application. Mr. Gehring said the applicant tries to find existing towers or structures rather than creating new ones. Mr. Gehring said the town is co-applicant as land owner only on the application. Mr. Gehring said "Tab 3" outlines how the applicant looks for sites; preferable existing, unlit, unman, unoccupied sites. The applicant recognized the possible future development at the Medfield State Hospital and the landlord (Town of Medfield) has granted permission which is included under "Tab 3" of the binder application. Mr. Gehring said "Tab 4" offers a familiarization with the site and "Tab 5" is the FCC regulations. Mr. Gehring said that "Tab 6" is Mr. Keith Vellante report regarding sound and radio frequency. Mr. Gehring reviewed densification maps with the Board and said that with more

users the footprint shrinks. The current towers are stressed. Mr. Gehring then showed a map outlining the change in densification with the added equipment on the MSH water tower. The maps were a before and after of the proposal. Mr. Gehring noted that “Tab 7” of the application is Dr. Don Haes report referencing federal law and how radio frequencies affect health. Mr. Gehring noted the proposed equipment is compliant with the federal guidelines. Mr. Gehring said that “Tab 8” is Mr. Doug Sheadel’s sound assessment report. Mr. Gehring said the antennas don’t create sound. There is a fan in equipment closet and generators (to be used if there is a power outage) which will create minimal sound. The generator will be tested once a week and can be programmed to test whenever is convenient for the Town. Mr. Gehring noted the type of generator was changed from when the original application was submitted. Mr. Gehring gave an addendum letter to Chairman McNicholas noting the change. Mr. Gehring said the new generator is quieter however sound has never been an issue. Mr. Gehring said the structure is unobtrusive and likes to call it a “non-use”. Mr. Gehring said that once it is built nothing really happens at the site. Mr. Gehring said “Tab 9” is a photo simulation of potential visual impact. The applicant went around the abutting neighborhood and took pictures to create a “before and after” photos. The photos show the structure with and without antennas. Mr. Gehring feels there is minimal visual impact. Mr. Gehring noted the applicant has been through a full NEVA process and went before the Medfield Historical Commission. The NEVA found no adverse effect and approved the project. The Medfield Historical Commission had two conditions. The MHC would like shrubs to continue around all sides of the equipment closet and would like an 8 foot composite fence material to be used; instead of a vinyl fence. The MHC also noted they would like the color of the fence to blend in with the surroundings. The MHC said the color of the fence is not a condition however; they would prefer the fence not be white. The applicant is willing to defer to the Zoning Board of Appeal regarding the color of the fence and is not opposed to any color.

Mr. Gehring noted “Tab 10” outlines the proposed project plans. Mr. Gehring referenced oversized plans with the Board and audience. Mr. Gehring said plan A-2 has been edited to show the extended shrubs, composite fence and more harmonizing fence color. Mr. Gehring said the structure is a 20 x 40 compound with a 20 x 16 concrete pad and a 500 gallon propane tank. The cables from the roof will all go underground. Plan A-3 is an elevation drawing. Mr. Gehring said the current height of the tower is 140 feet. The applicant is allowed to go 10 feet high. The plans show only a 147.2 elevation (the antenna will only go 7.2 feet high) Mr. Gehring said the process started in 2016 and these plans are the results of a lot of work. Mr. Gehring feels this application is very straightforward and both the applicant and the town win. Mr. Peck said he believes this is a very thorough application and does look like a win for both parties. Ms. Raposa noted the 6-foot fence limit in the Medfield zoning bylaw. Ms. Raposa said the applicant is asking for an 8 foot fence. Ms. Raposa asked if a 6-foot fence would work. Mr. Gehring said an 8-foot is preferred for security. Mr. Patrick Nysten agreed that an 8-foot fence for security would be preferred. Chairman McNicholas said that based on how the notice reads a variance for the fence could be considered.

Mr. Matt Parillo, 44 Evergreen Way, said that he appreciates the applicant bring so many expert witnesses to the hearing however, his research has indicated that individuals within ¼ mile from the structure could pose a health risk. Mr. Parillo asked if the Board could ask the Board of Health to do an independent review. Ms. Raposa said that she doesn’t believe the Board can ask the Board of Health to do that. Mr. David Maxson, 14 Lawrence Circle, said he has been a part of the Medfield Wireless Committee and has reviewed Dr. Hae’s report. Mr. Maxson agrees with Dr. Hae’s methods and reports and feels that is all the evidence that is needed. Mr. Maxson said the Telecommunication Act lifted the burden for the Board of Health and the Zoning Board of Appeals. Mr. Maxson is very comfortable with the results. Mr. Parillo said he also concerned about house value. Mr. Parillo asked if the applicant could provide real estate market analysis about the effect of a cell tower. Mr. Gehring said they will usually commission a real estate analysis when they are constructing a new tower however, this is pre-existing. The water tower is already there. However, Mr. Gehring said that studies show no evidence of these type of installation have impacted value. Mr. Gehring said it comes down to personal preference. Mr. Gehring feels that living in a cell phone “dead zone” would have more of a detriment on home

value. Mr. Parillo noted that Mr. Gehring is saying that no studies have been done as asks that the Zoning Board of Appeals be “pioneers” with this request. Mr. Maxson believes that if a cell tower is “in your face” it will affect property value. The antennas are on top of the tower and most people won’t notice them. Mr. Maxon feels that by asking the applicant to do that, it will only delay the process and will not render any results.

Mr. Massaro, 36 Evergreen Way, said he has been very involved with the Medfield State Hospital and is very interested in what happens there. Mr. Massaro asked if town counsel, Mark Cerel reviewed the application. Ms. Raposa said yes; Mark Cerel has been involved. Mr. Massaro asked if the DPW has signed off on the proposal. Ms. Raposa said the Water and Sewer Board has reviewed it and the DPW added no additional comments. Mr. Massaro reviewed the oversize plans to double check the placement of the propane tank and felt the placement was appropriate in the context of the Medfield State Hospital Reuse Master Plan. Mr. Massaro noted that if the generator could be tested at the same times as the Medfield State Hospital generators that would be helpful. Mr. Gehring said the applicant would be willing to try and coordinate the generator tests. Mr. Maxson noted the use of the water tower to be used in a lease with a telecommunication company was voted in at town meeting and the tower was designed for antennas future placement. Mr. Maxson said this has been anticipated for a long time with zoning, design, water, etc. Mr. Maxson said a lot has gone in to this. Chairman McNicholas asked for any further questions/comments from the Board or audience. No further questions or comments were given.

The Board agreed to do independent drive-bys, in place of a group site visit. At approximately 8:43 pm, Mr. Spinelli made a motion to close the hearing. Seconded by Mr. Peck. The Vote: 3-0.

### **Administrative**

**Gregory Axelrod – 27 Charlesdale Road** – Ms. Raposa supplied the Board with a sample decision for discussion. Mr. Peck will review the draft decision. At approximately 8:46 pm, Mr. Peck made a motion to approve the special permit with conditions. Seconded by Mr. Spinelli. The Vote: 3-0.

**Razza – 138 Harding Street** – Ms. Raposa feels that it is very straightforward and supplied the Board with a sample decision for discussion. Chairman McNicholas noted to include an as-built plan for the new impervious coverage once completed. Mr. Spinelli agreed to do the final edits of the decision. At approximately 8:50 pm, Mr. Peck made a motion to approve the special permit at 138 Harding Street with conditions. Seconded by Mr. Spinelli. The Vote: 3-0.

**Lia – 55 Elm Street**- Site visit scheduled for Saturday, January 12, 2019 at 8:30 am- Mr. Peck feels the pool setback is odd. Chairman McNicholas noted that by granting the variance, the applicant is able to do less rather than more. Chairman McNicholas noted the vote will be at the next meeting after the site visit. Ms. Raposa will circulate a draft of the decision and Chairman McNicholas will review.

**Cellco Partnership/Verizon** – Mr. Peck said the abutter’s concerns about health and property value impossible to measure. Chairman McNicholas noted the town is behind this special permit and agrees with Mr. Peck that the evidence would be impossible to measure. Chairman McNicholas asked if there is a cell tower on Mt. Nebo. Ms. Raposa replied yes. Chairman McNicholas feels a variance for the 8-foot fence is in everyone’s best interest. Mr. Spinelli agrees. Ms. Raposa will draft a decision and circulate for the February 13, 2019 meeting.

**Vacancy** – The letter submitted by Mr. Gustafson was reviewed. Chairman McNicholas feels the Board could use a sixth person. Ms. Raposa believes that after meeting the applicant he could capture the framework and has the interest. Mr. Spinelli knows Mr. Gustafson personally and will abstain from the vote. At approximately 9:16 pm, Mr. Peck made a motion to recommend Mr. Gustafson’s appointment to the Zoning Board of Appeals. Seconded by Chairman McNicholas. The Vote: 3-0. Ms. Raposa will forward to the Board of Selectmen.

### **Deliberations/Decisions**

Chairman McNicholas noted that at the bottom of the first page of all decisions it should be standard practice to reference the meeting minutes.

**Zelus, 1 Green Street (JM, CP, JS)** – Chairman McNicholas would like the hours for selling alcohol on Sundays confirmed. Ms. Raposa will discuss with Mark Cerel and report back. Chairman McNicholas believes parking was addressed well in the decision. At approximately 9:05 pm, Mr. Peck made a motion to approve the special permit with conditions pending edits on hours of retail sales of alcohol. Seconded by Mr. Spinelli. The Vote: 3-0.

**4 Pleasant Court (JM, CP, JS)** – Chairman McNicholas noted no abutters showed up at the site visit. At approximately 9:10 pm, Mr. Peck made a motion to approve the special permit with conditions. Seconded by Mr. Spinelli. The Vote: 3-0.

### **Minutes**

**12/12/18 (JM, CP, JS)** – At approximately 9:15 pm, Mr. Spinelli made a motion to approve the minutes from December 12, 2018. Seconded by Mr. Peck. The Vote: 3-0.

**12/13/18 (JM, WM, MW)** – Minutes to be discussed at 1/10/19 meeting.

At approximately 9:18 pm, Mr. Peck made a motion to adjourn the meeting. Seconded by Mr. Spinelli. The Vote: 3-0.

### **Respectfully Submitted,**

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