



TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

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

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MEETING OF:
May 8, 2019
MINUTES

Members Present: Michael Whitcher, Acting Chairman; William McNiff, Member; Jared Spinelli, Associate Member

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

Staff Present: Sarah Raposa, Town Planner

Staff Absent: Marion Bonoldi, Recording Clerk

Others Present: Michael Larkin, Tracy Hogan

Location: Medfield Town House, 2nd floor meeting room

At approximately 7:00 pm, Acting Chairman Michael Whitcher called the meeting to order and announced the meeting is being recorded.

Comprehensive Permit Modification Request (per 760 CMR 56) Country Estates of Medfield, Hospital Road 40B - Request to renew extension of construction hours per the ZBA Decision #1343, Approved August 8, 2018

Ms. Sarah Raposa asked Mr. Michael Larkin if he has recorded the previous decision modifications. Mr. Larkin said he will be recording them tomorrow, May 9, 2019.

Mr. Whitcher noted the hearing is regarding of Mr. Larkin's request to extend construction hours and to get a status of the development. Mr. Whitcher noted that Mr. Larkin has appeared before the Board numerous times. Mr. Whitcher said Mr. Larkin's last meeting with the Board was in March to review the status of the project and was seeking an extension of a previous modification. Mr. Whitcher asked Mr. Larkin what his request of the Board is at this meeting. Mr. Larkin said the extension of construction hours for Saturdays. Mr. Larkin noted the construction equipment on Saturdays is light machinery. Mr. Larkin said the construction hours would be from 8:00 am to 5:00 pm on Saturdays. Mr. Spinelli confirmed that Mr. Larkin is looking to renew what the Board granted him in at the last meeting. Mr. Larkin said yes. Mr. Larkin said he is looking for a 12 month extension. Mr. Larkin believes 12 months is needed to complete the project. Mr. McNiff noted in the past, 3-month extension have been granted. Mr. McNiff feels for oversight of this project, the extension should be kept at 3-months, if granted. Mr. Larkin asked if a 6-month extension would be considered. Mr. Jared Spinelli said the concerns of the Board and the community; need to be discussed before any request is granted.

Mr. Larkin said the project has been a “bit behind the 8 ball” due to weather. Mr. Larkin said the project is not where he wants it to be for this meeting. Mr. Larkin was hoping there would be more erosion control in place prior to this meeting. Mr. Larkin noted that due to the weather; temporary berms have been added for erosion control. Mr. Larkin said the berms were to direct the rain water into the catch basins. Mr. Larkin said if April had not been so wet, there would be more landscaping and sod at the development.

Mr. Spinelli asked if some of the homes at the property have received sod and hydro seeding. Mr. Larkin said yes; some of the homes have. Mr. Spinelli asked when some of the properties received sod and hydro seeding. Mr. Larkin said approximately one month ago. Mr. Spinelli asked if the sod took to the ground. Mr. Larkin said yes. Mr. Spinelli asked if the hydro seed grew. Mr. Larkin said the hydro seed just got sprayed approximately 2 weeks ago. Mr. Spinelli asked why the sod and the hydro seeding didn’t happen at the entire property. Mr. Larkin said the intension was to sod all of the areas however there was 23 days of rain in April. Mr. Spinelli said the rain did not affect Mr. Larkin’s ability to put down sod in some areas. Mr. Larkin said it is possible that sod was put down in the fall. Mr. Spinelli said that Mr. Larkin was at a meeting with the Board in August and in March. Mr. Spinelli said in August there was no sod and in March there was no sod. Mr. Larkin said he believes there was sod in place at some of the homes in March. Mr. Spinelli asked why some parts of the property received sod and not all of the areas. Mr. Larkin said no sod would be placed in the winter and then it rained in April. Mr. Larkin said the sod has been ordered and is being put in tomorrow (May 9, 2019). Mr. Spinelli said the confusion is that the weather didn’t affect Mr. Larkin’s ability to sod part of the development. Mr. Larkin said it is an extensive amount of work to be done and can’t be done in 2 days. Mr. Spinelli asked if the areas where there are run-off issues were addressed with sod. Mr. Larkin said no. Mr. Spinelli asked why sod was not added to those areas. Mr. Larkin said, again, the sod doesn’t become available until the beginning of April and then the heavy rain began. Mr. Spinelli said he wants to get the information correct and asked Mr. Larkin to clarify what month the sod was added to some of the homes. Mr. Larkin believes it was before the March ZBA meeting. Mr. Spinelli said he is struggling as to why sod and erosion control was not added to the areas of concern that were identified back in August.

Mr. Whitcher feels the discussion about the sod highlights that any extension would need to be less than 12 months for oversight of the development. Mr. Whitcher feels that, unfortunately, the Board needs to babysit some aspects of the project. Mr. Whitcher referenced the field reports and noted that Mr. Larkin has been receiving them. Mr. Whitcher said the field reports have made several observations of ongoing deficiencies with erosion control. Mr. Whitcher noted that some of the issues that were addressed at the last meeting are still noted on the field report date one week ago. Mr. Whitcher said that is very concerning to the Board. Mr. Whitcher doesn’t feel that the field report is noting suggestions; they are requirements. Mr. Whitcher said, like Mr. Spinelli, that he is not trying to be difficult however the run-off due issues due to lack of erosion control, going into Hospital Road, is having a negative affect and the Board needs to know it is being handled correctly. Mr. Whitcher noted the “piles of earth in the North/Northwest corner” referenced in the field report. Mr. Larkin said that is due to loam screening. Mr. Whitcher asked if that is the “pile of earth/material” the inspector was referring to in the report, or was it something else. Mr. Larkin said the pile is now screened and will be spread at the homes. Mr. Spinelli asked when the pile was formed. Mr. Larkin said the pile was formed one year ago. Mr. Spinelli asked why the pile was not screened prior to now. Mr. Larkin said there was not where to put it. Mr. Whitcher asked if the debris that is being filtered out due to screening is being removed from the site. Mr. Larkin said yes.

Mr. Whitcher asked how many people live at the development now. Mr. Larkin said approximately 12 units are occupied. Mr. Whitcher said he is trying to get an idea as to who is tracking the dirt out on to the road;

residents, construction trucks, etc. Mr. Larkin said a few new crews are at the site. Mr. Whitcher asked if Mr. Larkin has met the new crews to review requirements of the decisions/modifications. Mr. Larkin said yes. Mr. Whitcher asked if the construction crews use the same roads as the residents. Mr. Larkin said yes; same roads are used. Mr. Whitcher asked if there is an alternative access. Mr. Larkin said no. Mr. Whitcher said there needs to be a better way to control the dirt/erosion at the site. Mr. Whitcher said it is frustrating that the Board needs to come up with these ideas; Mr. Larkin needs to come up with solutions and implement them. Mr. Larkin said the dirt issues has just come up in the last 3 days. Mr. Whitcher said this has been going on for a long time.

Mr. McNiff said he has driven by the property twice within the last week. Mr. McNiff said it is very busy there with construction trucks and residents. Mr. McNiff said he drove to the property prior to the meeting. Mr. McNiff thought Hospital Road look fairly clean today. Mr. McNiff said he agrees with Mr. Spinelli that the sod is very important and need to get in immediately. Mr. McNiff said one of his concerns is that there were emails being circulated to a lot of parties regarding the erosion control issues. Mr. McNiff said that Ms. Raposa was on the email chain and asking questions. Mr. McNiff is concerned that there are a lot of responses to those emails from everyone but Mr. Larkin. Mr. Larkin said he was on vacation this week and he met with Ms. Raposa this afternoon, prior to the meeting. Mr. McNiff said he feels that Mr. Larkin almost takes it for granted that we will give him an extension of construction hours. Mr. McNiff said the Board keeps seeing the same problems over and over again. Mr. McNiff said the Board has to hold people accountable for their actions. Mr. McNiff said that is one of the reasons for the ZBA Board. Mr. McNiff said he is concerned about the sod. Mr. Larkin said it will be in tomorrow. Mr. McNiff said he doesn't necessarily believe Mr. Larkin.

Mr. Spinelli said he has been at every meeting concerning Mr. Larkin. Mr. Spinelli said he was at the August, October, March and today's meeting. Mr. Spinelli said he is re-reading the decisions and minutes. Mr. Spinelli said that he feels Mr. Larkin says a lot of things and might have the right intentions but doesn't deliver. Mr. Spinelli read from the August 8, 2018 meeting, "Ms. Tracy Hogan, 20 Hospital Road, is very concerned that there are a lot of house that are halfway complete and nothing seems to get finished. The run-off is going all the way down Hospital Road." Mr. Spinelli continued from the August 2, 2018 meeting, "Mr. Nolan read a letter from Mr. Maurice Goulet, Director of Public Works. Mr. Goulet stated the difficulty in keeping the Country Estates site in compliance of the special permit. Mr. Goulet feels Mr. Larkin needs to take action before there is a problem. Erosion control needs to me maintained and it is not." Mr. Spinelli read Mr. Larkin's response from the August 8, 2018 meeting, "Mr. Larkin said they will be landscaping with loam and grass and putting the front wall in. Mr. Larkin said the entire "front scape" will be cleaned up and it will be a dramatic improvement. Mr. Larkin feel the "front scape" can be completed in 30 days." Mr. Spinelli said that was August and now it is May 2019. Mr. Spinelli said that Mr. Nolan, Chairman of the Zoning Board of Appeals, in August 2018, said, "Mr. Larkin needs to recommit to dealing with erosion control issues. The maintenance of the stormwater erosion problems need to be a priority." Mr. Spinelli said these issues were revisited in October and the Board had the same concerns. Mr. Spinelli referenced the February 2019 decision, Condition #4. Mr. Spinelli read the condition and said, "Erosion control measures shall be refreshed or replaced as need to divert the run-off from entering Hospital Road." Mr. Spinelli said sod was specifically discussed for erosion control. Mr. Spinelli said that decision was from February. Mr. Spinelli said he is not finding Mr. Larkin creditable. Mr. Spinelli feels that if the erosion control was a top priority the sod could have been done. Mr. Spinelli said Mr. Larkin told the Board that sod was put down in other areas and it took to the ground just fine. Mr. Spinelli is not finding the reason of a rainy April to be creditable. Mr. Spinelli said there has been an area under the microscope for the Board for the last 9 months and nothing has been done; that is Mr. Spinelli's concern. Mr. Spinelli said it bothers the Board and the residents and feels that Mr. Larkin leaves the meetings and goes back

to his priority list; not of the Boards. Mr. Spinelli said for those reasons, this conversation does not sit well with him.

Mr. Larkin said February was winter and again, he didn't put sod in due to the weather. Mr. Larkin said he is trying to get it done; he is trying to wrap it up. Mr. Larkin said if the Board comes by in 3 month time; this will all be done. Mr. Larkin said it will be done in 3 week time. Mr. Spinelli said, asking again, when the sod was put down. Mr. Larkin said he believes it was earlier in the fall. Mr. Spinelli asked if it was after the October meeting. Mr. Larkin is not sure. Mr. Spinelli asked when it was done; why wasn't it done in the suspect areas; the areas the Board and neighbors have been concerned about. Mr. Larkin said that is why the "front scape" was the focus. Mr. Spinelli said but not the sod. Mr. Larkin said correct.

Mr. McNiff asked when the 3 month extension ends. Ms. Raposa said May 31, 2019. Mr. Witcher asked if the Board could condition the extension on an acceptable report from the inspector. Ms. Raposa said one of the things Tetra Tech offered was to do a change order that would include more frequent erosion control checks. Mr. Witcher said his concern is that there in an unfulfilled condition of the decision. Ms. Raposa suggests a site visit so the Board has a common understanding of the areas and what to expect.

Mr. Witcher said that he appreciates the asphalt berm that was added to the property to divert the run-off, temporarily. Mr. Larkin said the berm was added because he needed something immediate due to the rain that can be taken out later.

Mr. Witcher said the Board has established that the sod is not present at the development, and Mr. Larkin said it will be soon. Ms. Raposa said Mr. Larkin is asking for extended Saturday work hours however the issue is the implementation of the stormwater management plan. Mr. Witcher said the development needs oversight but unfortunately denying the Saturday work hours will make the project last longer.

Ms. Tracy Hogan, 20 Hospital Road, said there is still a lot of dirt; a lot of dirt. Ms. Hogan believes the "pile of earth" that the inspector referred to in the field report is not the pile at the back of the development. Ms. Hogan believes it is the "pile" in the middle of the project. Ms. Hogan said the homes between units #21 and #23 do not have sod. Ms. Hogan said the yards going up Stoneridge Way are on a hill; if those homes are not sodded, all of the dirt runs down the road. Ms. Hogan said to just sod the front will not solve the problem. Ms. Hogan said the construction trucks are supposed to exit and enter Hospital Road via Route 27 only. Ms. Hogan said it is not as bad as it used to be but it still needs to be enforced. Ms. Hogan feels the dirt "pile" in the middle of the development is the problem. Ms. Hogan said it is very large and is about one story tall. Mr. Witcher asked Mr. Larkin if he knows the "pile" Ms. Hogan is referring to and if it can be addressed. . Mr. Larkin said the dirt "pile" in the middle needs to be landscaped. Ms. Raposa said that dirt needs to be stabilized however; Ms. Raposa feels the "pile" in the back of the property is referenced in the report because of the mention of a falling fence. Ms. Raposa said Mr. Larkin needs to replace the fence as needed.

Mr. Spinelli said, moving forward, are there any issues other than weather that are holding up the laying of sod. Mr. Larkin said no. Mr. Spinelli said is it a financial burden to bring in already screened loam. Mr. Larkin said it is already at the site. Mr. Spinelli confirmed that the sod is ordered. Mr. Larkin said yes; it is being delivered tomorrow. Ms. Hogan, 20 Hospital Road, asked where the sod is specifically going. Mr. McNiff said he would expect any area that is near the street as a common area and any yard that has an occupant needs to be sodded. Mr. McNiff said he understands that the entire problem can't be solved right now because it is a building site however, within 2 weeks any house with and occupant and the common areas near the street need to be done. Mr. McNiff believes that will help with the run-off until the property is complete. Mr. Larkin said that is his

intention. Ms. Hogan, 20 Hospital Road, is concerned about the lack of oversight at the site. Ms. Raposa said enforcement is difficult on a project this size and feels the best way is to increase the number of visits Tetra Tech is doing at the site and report back to the Board. Mr. Whitcher said unfortunately the ZBA Board only once a month. Ms. Raposa said soon the Conservation Commission will have jurisdiction over the site due to the construction of homes near wetlands and the Building Commissioner. Ms. Raposa said that Mr. Larkin should be aware that the Building Commissioner and the Conservation Agent have been kept in the loop on the project. The Conservation Agent could shut the site down due to violation of the stormwater permit. Mr. Spinelli said Mr. Larkin should no longer assume to walk out of a ZBA meeting with what he wants. Mr. Spinelli said there have been too many meetings, discussing the same issues to take anything for granted with the Board. Mr. Larkin said he doesn't want to be in front of the Board all of the time. Mr. Spinelli said he is assuming that Mr. Larkin wants Saturday hours as a benefit to him, but if things keep going the way they are, the Board may need to revisit it.

Mr. Whitcher suggested having Mr. Larkin back at the June meeting. Mr. Whitcher said at the June meeting the sod should be in. Ms. Raposa said Tetra Tech can put a change order in for another inspection. Mr. Whitcher is not comfortable extending the hours until August and waiting that long for another check in. Mr. Larkin said continuing until June 12, 2019 and having a site visit prior to meeting would work for him.

The Board scheduled the site visit for June 22, 2019 at 8:30 am.

Mr. Whitcher asked about the asphalt berm. Mr. Whitcher asked how temporary the berm is and when it will no longer be needed. Ms. Raposa suggests following up on June 12, 2019 meeting when the Board has an updated understanding to the stormwater situation at the site. Mr. Whitcher asked about the drainage system. Mr. Larkin said the drainage plans need to be given to the Board. Ms. Raposa said needs to be an action item for the engineers and needs to be resolved by the June 12, 2019 meeting as well. Ms. Raposa said the reason Tetra Tech is involved is because of the stormwater system. Ms. Raposa is hoping this is a non-issue but needs confirmation from the engineers. Ms. Raposa said they Board needs confirmation that the foundation drains are part of the original concept of the stormwater plan. Ms. Raposa noted the engineer's report states the water is draining in to Hospital Road and Mr. Larkin feels that is not happening.

Mr. Whitcher hopes that Mr. Larkin realizes he has the Town "on guard" and hopes that he can deliver what he has promised at this meeting.

Ms. Raposa summarized that the Board would like:

- The sod added to the front scape (along Hospital Road), at all occupied homes and homes along the inclines of the 2 roads, Sunset and Stoneridge.
- Move the wash station up toward the rear of the site
- Change order from Tetra Tech for more frequent moderating
- Communication and guidance from Tetra Tech and McKenzie about the berm and granite curbing installation closer to Hospital Road
- Communication and guidance from Tetra Tech and McKenzie about the foundation drains

Ms. Raposa this information will be reported back to the Board at the June 12, 2019 meeting. Mr. Whitcher asked the Board if they had any further questions or comments. No response from the Board. Mr. Whitcher said Mr. Larkin has his marching orders.

At approximately 8:07 pm, Mr. McNiff made a motion to extend the Comprehensive Permit Modification for Country Estates of Medfield, Hospital Road 40B - Request to renew extension of construction hours per the ZBA Decision #1343 until June 12, 2019 including the conditions. Seconded by Mr. Spinelli. The Vote: 3-0.

Administrative:

- **Minutes**-Ms. Raposa noted the outstanding minutes will be tabled until the next meeting.
- **Rosebay**- Ms. Raposa was not expecting this project to come up so quickly however, the applicant anticipates submitting an application to the ZBA within the next 30 – 60 days. Ms. Raposa said at that point the ZBA has 30 days to open the public hearing. Ms. Raposa said she will need 3 members to be a part of that panel.
- **Scheduling** – Ms. Raposa talked to Mr. McNicholas and confirmed that he is available the 2nd Thursdays of the month. Mr. Witcher said that Thursdays work better for him than Wednesday, for the next few months. Mr. Spinelli is here July and September but is away during the 2nd week of August. Mr. McNiff is available however; he is having shoulder surgery September 4, 2019. Ms. Raposa noted that Mr. Peck is available.

ADJOURNMENT – At approximately 8:25 am, Mr. McNiff made a motion for adjournment. Seconded by Mr. Spinelli. The Vote: 3-0.

Respectfully Submitted,

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