



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:
August 12, 2020
MINUTES

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

Members Absent: Charles H. Peck, Associate Member; Michael W. Whitcher, Member; Jared Gustafson, Associate Member

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

Others Present: Carl Gehring, Andrew Griffin, Laura Griffin, Edward Cannon, William Dron, Beverly Dron, James Murphy, Gary Pelletier, Craig Cygawnoski

Location: Virtual Zoom Webinar: zoom.us/j/95781820677?pwd=b3JvcHNSSXhMT3p1SnpVU3p2ZGVldz09

At approximately 7:03 pm, Chairman Jack McNicholas called the meeting to order and announced the meeting is being recorded. Chairman McNicholas introduced Mr. William McNiff and Mr. Jared Spinelli. Chair McNicholas read:

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Medfield Zoning Board of Appeals is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by following the instructions on the agenda and meeting notice. The meeting is being recorded.

Chair McNicholas explained the procedures and processes of the meeting.

Cellco Partnership dba Verizon Wireless Tenant (applicant; Eversource Energy Transmission Right-of-Way, owner) seeks an amendment of Decision # 1269 dated 02/16/16 to revise Landscape Plan and Conditions of Approval pursuant to plans included with the application. The property is located at High Street; Assessors' Map 18 Lot 015.

Mr. Carl Gehring, Verizon, said he has been in front of the Board a few times in the past. Mr. Gehring explained that due to the right-of-way on the site, the hemlocks planted were cleared by Eversource. Mr. Gehring said that due to the on-going power outages the utility companies want right-of-way completely cleared. Eversource said that if any planting grows or can potential grow over 15 feet they will clear it. Mr. Gehring said only plantings less than 15 feet are permitted on the right-of-way. Mr. Gehring suggests a blue point juniper. The juniper shrub will not grow over 15 feet and are deer resident. Mr. Gehring visited the site on High Street. Mr. Gehring said Eversource has reluctantly agreed to let Verizon plant junipers back at the site. The landscaping plan has been approved and signed-off by Eversource. The new landscaping plan has two rows of plantings to shield the Verizon equipment. Mr. Gehring shared the landscaping plan virtually with the Board. Mr. Gehring feels the plan proposed is acceptable to all parties involved.

Chair McNicholas asked if the 6 foot fence will remain. Mr. Gehring said yes.

Mr. William McNiff asked how tall the equipment is. Mr. Gehring said about 8 feet.

Ms. Debra Guagliardo, 101 High Street, said she has spoken with Mr. Gehring and agrees with the plan proposed.

Mr. McNiff made a motion to close the public hearing. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes; JM=yes. The Vote: 3-0.

Andrew L. Griffin and Laura W. R. Griffin (applicant/owners) seeks a Variance under MGL Chpt. 40A §10 and/or Medfield Zoning Bylaws §300-14.11 and Attachment 1.7 to allow for a retaining wall approximately 8' in height. The property is located at 13 Delaware Road; Assessors' Map 01 Lot 006; RT Zoning District.

Mr. Edward Cannon, Attorney, presented to the Board. The applicant is putting in a pool and has also been going through the conservation commission process. During the process, it was discovered that the retaining wall built was 8 feet high. The wall was flagged by the Building Commissioner and a variance is now being sought. Mr. Cannon shared the plan with the Board virtually. The only violation is the height of the retaining wall. Mr. Cannon reviewed the criteria for a variance. Mr. Cannon said there is a unique topographically condition. Mr. Cannon said only this lot has a dramatic elevation drop. Mr. Cannon discussed the hardship condition. Mr. Cannon said the bylaws were not disregarded and the hired contractor made the error. Mr. Cannon said to correct the height would be very difficult due to the pool and the elevation slope. The wall is not an eye-sore for the neighborhood. Mr. Cannon shared some photos with the Board. Mr. Cannon noted that due to the elevation only a small portion of the wall is 8 feet; most of the wall is 6 feet high.

Chair McNicholas said Mr. Maurice Goulet, DPW Director, sent an email stating the wall is not within the drainage easement.

Mr. Spinelli and Mr. McNiff said they don't believe a formal site visit is necessary due to the photos submitted.

Mr. McNiff made a motion to close the public hearing. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes; JM=yes. The Vote: 3-0.

Bill Ladd (applicant) and Ralph V. Ladd and Catherine M. Ladd, Trustees of the Caroline M. Ladd Revocable Inter Vivos Trust Agreement (owner) seeks a Special Permit under MGL Chpt. 40A §9 and/or Medfield Zoning Bylaws §300-6.2.T to reduce the setbacks for the proposed work consisting of installation of a sport court and in-ground trampoline within the rear yard and side yards and increasing the preexisting nonconforming lot coverage. The property is located at 146 North Street; Assessors' Map 49 Lot 036; RU and RS (rear) Zoning Districts with Secondary Aquifer Zone.

Mr. James Murphy, Attorney, presented for the applicant. Mr. James explained the applicant is seeking to reduce the setbacks for the proposed sport court and in-ground trampoline. Mr. Murphy said there were errors in the application; the wrong aquifer district was noted and a shed was not included on the plan. A special permit is now needed with the addition of the shed due to lot coverage. Mr. Murphy shared the plans with the Board virtually.

Mr. Murphy said the lot straddles both RU and RS zones. Mr. Murphy apologized for the errors on the plans/application and said the engineer that was originally hired passed away and obtaining his previous work on this project has been difficult. Mr. Murphy discussed the sport court, potential pool, patio, potential pool equipment storage and trampoline areas.

Mr. McNiff said that currently there is no issue with the lot coverage however there were mistakes in the application. Mr. Murphy said the mistakes were the wrong overlay district. Mr. Murphy said the lot coverage counts were incorrect. Mr. McNiff wants to know why the sport court needs to be so large. Mr. Ladd, applicant, said he would be willing to adjust the size of the sport court. Mr. Ladd said the sport court is mainly for his sons to use for hockey practice.

Mr. Spinelli said he believes the side yard setback is more of an issue. Mr. Spinelli said the neighbors at 152 North should be considered and is looking at rear setback vs back setback. Mr. Murphy said the setback is about orientation and the sport court could be reduced. Mr. Murphy said the applicant would consider the edits the Board has to offer. Mr. Murphy said there are no issues with the abutters.

Chair McNicholas asked if the end goal is to have the sport court, trampoline and pool. Mr. Murphy said yes. Mr. Murphy said the Building Commissioner asked for a stamped plan. Mr. Gary Pelletier, Building Commissioner, said initially there was a complaint from an abutter before any permits were filed. Mr. Pelletier said he visited the site and spoke to Mr. Ladd. Mr. Ladd told Mr. Pelletier the hole in the ground was for a trampoline and then received a permit request for a pool. Mr. Pelletier said at that time he did a zoning review and the original application for the pool did not show a sport court or a trampoline. Mr. Pelletier said there were many errors on the application. Mr. Pelletier said the application is grossly inaccurate. Mr. Pelletier said all of the information is needed to address lot coverage. Mr. Pelletier said he needs the information on the shed to determine the non-conformity. Mr. Pelletier said there are questions that are unanswered. Mr. Pelletier said there are a lot of issues for the Board to consider. Mr. Murphy said he never wants to be on the wrong side of the Building Commissioner and said there was a communication gap with Colonial Engineering.

Mr. Pelletier said there is nothing on the plans for a recharge system. Mr. Pelletier said this is not a requirement but he would like it considered. Mr. Pelletier feels the stormwater could be contained on site.

Mr. William Dron, 152 North Street, said he wants to clarify that he was not spoken to about the sport court or any future construction. Mr. Dron said the first he heard of it was the abutters notice from the town. Mr. Dron

said there is no buffer between his garage and his sport court. Mr. Dron said there is a spotlight that is shining into his house without the pool, sport court, trampoline. Mr. Dron said the ground level of the applicant's property is now above his due to all of the construction.. Ms. Beverly Dron said everything is dug out already and everything is too close to their property line. Mr. Dron said this has all just gone too far. Mr. McNiff asked Mr. Murphy if he said "there are no issues with abutters" at the beginning of this hearing. Mr. Murphy said he did say that and he apologizes. Mr. Murphy said he was unaware of any issues.

Mr. Spinelli said that clearly Mr. Pelletier and Mr. Murphy have gotten misinformation from the applicant. Mr. Ladd apologized to the Dron family and was under the impression that his wife spoke to Mrs. Dron. Mr. Ladd said this is the first he has heard of this. Mrs. Dron said they are not concerned about the Ladd's as neighbors; they are concerned about all of the plans and the closeness to their property.

Chair McNicholas asked Mr. Pelletier if there are any open permits at this property. Mr. Pelletier said there is an open permit dating to 2017 and a pool permit has been submitted.

Chair McNicholas said he doesn't want to speak for the rest of the Board, but there has been a failure to communicate. Chair McNicholas said the plan in front of the Board is only a partial plan. Chair McNicholas would like the plan revised and complete. Chair McNicholas suggests having a completed plan to bring before the Board. Chair McNicholas doesn't see the current plan as workable.

Mr. Murphy asked Mr. Pelletier what is missing from the plans. Mr. Pelletier said the shed and the stormwater need to be on the plan. The date of when the shed was there would also be needed. Mr. Pelletier said the location of the pool equipment should be considered.

Mr. Spinelli would like to see one plan that is clear and presentable. Mr. Spinelli does not want to do a site visit without the appropriate plan. Mr. Murphy said he cannot promise when a plan will be ready.

Chair McNicholas said that the Board doesn't feel that the applicant has given anything that the Board can work with and there are abutter's that are not in support.

The next meeting is scheduled for September 8, 2020 at 7pm and Chair McNicholas said a complete plan with all elements of the property will be needed prior to the hearing.

Mr. McNiff made a motion to continue the public hearing to September 8, 2020 at 7:00 pm. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes; JM=yes. The Vote: 3-0.

Deliberations

High Street – Mr. McNiff has no issues with the High Street approval and will draft the decision.

Mr. McNiff made a motion to approve the modification of the prior decision for new landscaping. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes, JM=yes. The Vote: 3-0.

Mr. McNiff made a motion to approve Ms. Raposa to endorse the decision for High Street for the Board. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes, JM=yes. The Vote: 3-0.

Delaware Road – Chair McNicholas said he appreciated Mr. Cannon’s candor in the memo submitted to the Board and thought the presentation was very thorough. Chair McNicholas would be in favor of granting the variance. Mr. McNiff agrees and likes that the fence is not 8 feet all the way around. Mr. McNiff feels this was an honest mistake. Mr. Spinelli appreciated the presentation and would approve of the variance.

Mr. McNiff made a motion to approve the variance at 13 Delaware Road. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes, JM=yes. The Vote: 3-0.

Chair McNicholas said he will draft the decision. Mr. McNiff made a motion to approve Ms. Raposa to endorse the decision for 13 Delaware Road for the Board. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes, JM=yes. The Vote: 3-0.

Mr. McNiff made a motion for adjournment at 9:40 pm. Seconded by Mr. Spinelli. Roll Call Vote: WM=yes; JS=yes; JM=yes. The Vote: 3-0.

Respectfully Submitted,

Marion Bonoldi, Recording Clerk