

February 22, 2011
Medway Planning and Economic Development Board
Medway Senior Center
76 Oakland Street
Medway, MA 02053

BOARD MEMBERS PRESENT: Andy Rodenhiser, Chan Rogers, Bob Tucker, Tom Gay, and Karyl Spiller-Walsh.

ABSENT WITH NOTICE:

ABSENT WITHOUT NOTICE:

ALSO PRESENT: Susan Affleck-Childs, Planning and Economic Development Coordinator
Amy Sutherland, Meeting Recording Secretary
Gino Carlucci, PGC Associates Planning Consultant
Town Counsel Barbara Saint Andre, Petrini & Associates

The Chairman opened the meeting at 7:05 pm.

The Chairman asked for any citizen comments.

There were no citizen comments.

25 Summer Street Definitive Subdivision:

The Board is in receipt of an estimate for PGC Associates, Inc. dated February 22, 2011 to review the 25 Summer Street Definitive Subdivision Plan. The cost estimate is for \$552.50.

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the cost estimate for \$552.50 from PGC Associates. (no vote Chan Rogers- not present)**

The Board is also in receipt of an estimate from Tetra Tech Rizzo dated February 17, 2011 to review the 25 Summer Street Definitive Subdivision Plan in the amount of \$2,735.00.

- **On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to accept the cost estimate for \$2,735.00 from Tetra Tech Rizzo. (no vote Chan Rogers – not present)**

Minutes:

February 8, 2011:

- **On a motion made by Bob Tucker and seconded by, Karyl Spiller-Walsh, the Board voted unanimously to accept the minutes from February 8, 2011.**

Appointments:

- **On a motion made by Karyl Spiller-Walsh and seconded by Bob Tucker, the Board voted unanimously to appoint Dan Hooper to the Design Review Committee as an associate member for the term ending June 30, 2012.**

Chan Rogers arrives at 7:15 pm.

Minutes January 11, 2011:

The Board goes back to discuss the revised draft minutes from the January 11, 2011 meeting.

Member Spiller Walsh communicated that this was the third revision. There were some grammatical and conceptual errors. She references page 3 paragraph three regarding: “This change would be an improvement to the existing conditions.” It is her opinion that this is not the essence of what was said.

Susy Affleck-Childs responds that this is the opinion of Faist Engineering.

Spiller-Walsh is questioning if this is verbatim or if David Faist thought this was an improvement.

Susy Affleck-Childs responds that she believes this captures what was said.

Spiller-Walsh is comfortable with this if Susy believes this is what David Faist was saying.

The next item was the sentence “Based on the input...” This needs a verb.

Spiller-Walsh moves to page 5 paragraph to edit “This design will cause a problem for busing.”

The Chairman communicated that the minutes do not need to be verbatim and he reminds members that we should be more clear with how we say things.

Spiller-Walsh next referenced page 5 paragraph 9 – because of her experience “with” and not “and” her subdivision plan (Wingate Farm), where however, there is room to walk next to the roadway.

The last revision is to page 5 paragraph 10- There is not enough space to walk within the right of way.

- **On a motion made by Chan Rogers, and seconded by Bob Tucker, the Board votes unanimously to approve the minutes from January 11, 2011 with the changes which were identified.**

Oak Grove Feasibility Study Presentation

Member Rogers communicated that the Board did not state any position during the 2/15/2011 public forum in relation to the Bottlecap Lots. The Board does have a positive interest in sorting this out. The Planning and Economic Development Board made no presentation to the audience about what our hopes and aims were. It helps to show leadership to develop the land for

commercial and industrial use. He reiterates that a positive statement from the Board should have been made.

The Chairman responds to member Rogers by indicating that the Board is moving forward with the Bottlecap lots. The Board is working with Mass Development and the Board of Selectmen. It is an obvious effort. The Board is also working on zoning requirements. The Board should create a positive statement.

Member Rogers agrees to draft a positive statement in relation to the Board's position. He will supply it to Susy.

This will be placed on the agenda for the March 8, 2011 meeting.

Pine Meadow Subdivision:

Resident, Mrs. Turi, 8 Fisher St was present at the meeting. She owns property which abuts the subdivision known as Pine Meadow. Her purpose at the meeting is to inquire about the status of the project. She sent an email dated September 24, 2010 to the Planning and Economic Development Board relative to the lack of activity on this project. It has been 3 1/2 years since any work has been done. Her family is tired of looking at rocks, and dirt. There are piles of rock and overgrown weeds. She wants to know why nothing is happening. There are other projects around the corner that are being built. Mrs. Turi is tired of looking at the vacant lots.

The Chairman communicated that we can't force the developer to build. There is a timeframe for the permitting. The permit has been renewed. The State Legislature extended the permits due to the economic conditions. These were extended for two years.

Mrs. Turi indicated that someone did come to grade and seed. Then the weeds started to grow and now the weeds are 8 feet tall.

The Chairman indicated that it is the Board's desire to also see this project completed.

Mrs. Turi asks what can she do. It is her belief that the property she resides on has lowered in value due to this situation. She also is concerned that the developer is not here to discuss this.

The Chairman responded that if you feel damaged, you can hire a lawyer.

Mrs. Turi also indicated that people are starting to use this area to dump their trash.

Member Rogers reported that he had viewed the site and confirmed that there is debris starting to be dumped at this site. Rogers indicated that he is concerned about this, but the Planning Board's hands are tied. We can ask the developer to clean up the weeds.

The Chairman would like answers about why nothing is happening?

(Gary Feldman, construction manager arrives with Eddy, one of the owners of the subdivision.)

Mr. Feldman communicates that he feels bad about this situation. Unfortunately, there are financial issues which needed to be addressed. All parties have agreed to put money in the bank to pay the engineer and landscaper. There is currently no commitment to build. One of the owners to Lot 7 is trying to get a loan, but it has not been given yet.

Member Rogers asks if any lots have been sold.

Mr. Feldman responded that no lots have been sold. He also communicated that he is the project manager for the road. It is his intention to get the road finished. The curbing was done last year. It is an issue with money. People will not work without deposits. Since some money has been deposited, the work will begin.

The Chairman wanted to know what is the first project that Mr. Feldman will undertake.

Mr. Feldman indicated that he will do the landscaping, fence and final coat to the road.

Member Rogers asked if Mr. Feldman could cut the weeds.

Mr. Feldman responded that Mr. Fasolino was asked to cut the grass but it was communicated to Mr. Feldman that a wild flower mix was requested to be put down. This was done.

Member Spiller-Walsh responded that this situation is a mess. She suggested that they try something else.

Mr. Feldman responded that a wildflower mix was asked for and that is what was put down.

Member Tucker wanted to know what the original extension date is.

Susy Affleck-Childs communicated that the deadline to complete the construction of the Pine Meadow II Subdivision infrastructure was June 30, 2011. The State law extension would allow this to be completed by June 30, 2013. This means that the infrastructure needs to be done, not the houses built.

Mrs. Turi wants to know if anything can be done about the bulldozer which has just been left there.

Mr. Feldman indicated that he asked the contractor to move the piece of equipment, and he believes that this piece of equipment will not start until the spring.

Susy Affleck Childs wants to know if Mr. Feldman can make a commitment to clean up the debris by June 30, 2011.

Mr. Feldman responded yes.

It was communicated to Mr. Feldman that the more responsibility he demonstrates, it is better for all.

Susy Affleck Childs wanted to know if there been a resolution about fencing.

Mr. Feldman indicated that he needs to get a quote.

The Chairman reminds Mr. Feldman that the Board will be watching to see what is done. Mr. Eddy wants the Board to give them a chance to get it going.

Member Tucker left the meeting at 7:46 pm to attend the BOS meeting and will return.

Mullin Rule Certification:

- **On a motion made by Chan Rogers, and seconded by Tom Gay, the Board voted unanimously to accept the certification from Karyl Spiller-Walsh in relation to viewing the video and transcript of the public hearing on February 8, 2011 relating to Charles River Village OSRD. (Karyl Spiller abstained, Bob Tucker was not present)**

Charles River Village OSRD Special Permit – Discussion and Deliberations

Susy Affleck-Childs informed the members that the entire packet of supplemental information is present. The members are also in receipt of a worksheet which can be used as a working document to prepare the findings. (**See Attached.**) The list of waivers was also given to the Board. (**See Attached.**) A master list of all supplemental information will be developed.

Consultant Carlucci will be working on writing the Findings based on the discussion tonight...

The Board was also in receipt of a list of questions from member Spiller-Walsh which she would like addressed by Town Counsel.

Member Rogers disagrees with having Town Counsel spending time on issues which he does not feel are real issues.

Town Counsel noted she had received the questions today.

The Chairman asked if Town Counsel was comfortable giving answers to the questions.

Town Counsel indicated that she has not prepared with written responses, but she can certainly try to answer the questions. She further explains that some of the questions are not legal questions.

Member Spiller-Walsh referenced question number one. Will the Board accept the recommendation from Tetra Tech Rizzo?

Member Rogers does not feel that Tetra Tech Rizzo has made a recommendation.

Member Spiller-Walsh believes that Tetra Tech Rizzo did make a recommendation.

Member Rogers notes that Tetra Tech Rizzo was guiding the Board on the what if...?
Tetra Tech made a presentation and it is up to the Board to accept the presentation or not.

Member Spiller Walsh responds that she was at that meeting and recalls exactly what Mr. Daylor from Tetra Tech Rizzo said. Her recollection is that he clearly said that to determine where the roadway layout was, it would have to be decided in Land Court.

Member Rogers disagrees that this was a statement made by Tetra Tech Rizzo.

The Chairman asks member Gay if he has an opinion on the matter.

Member Gay responds that it is a matter of understanding whether it has any due bearing on the rest of the decision.

Town Counsel noted that this is not a title dispute. It is really a question of where the layout of the road is. Town Counsel could spend some hours at the Registry and research the deeds and then give her opinion. It would be a fascinating thing to do, but she is not sure that she would be able to come up with anything that the Board has not heard already. Obviously if there is going to be adjudication of land rights, it would end up in Land Court. It was her opinion that this was simply what Tetra Tech was saying. The real question is what can you find for your findings? We know that there was a statutory right of way which was laid out in 1863. It is 25 feet wide. The Board has letters representing the abutters, raising questions about where it is, and you have a letter from Tetra Tech, and you have further another letter from attorney Don Quinn responding to the Tetra Tech letter. This establishes that the applicant has gone out, addressed it to the satisfaction of the Board and has recommended that the road is where it is and noted on the plans. The applicant feels confident that this is where the road is. There is still a question about the access. If the Board is not comfortable with what has been provided you could comfortable deny it if you find there is not adequate access. Town Counsel is not sure how much is gained by going down that road.

Member Spiller-Walsh feels this is important to be on the same page in relation to where the layout is. The first reason is that on the west side you have the possibility to create a sidewalk. On the east side, you have an abutter that has issues with pre-existing non-conforming and close proximity. The pavement will greatly affect their front yard.

Member Rogers addressed the Chairman by indicating that the Board is going to have to make a series of votes in order for the Board to move ahead. Member Rogers does not feel the location of the road is an issue. There is no point spending hours and hours discussing the alternatives.

The Chairman responds that the waiver list which was provided addresses sidewalks on what they are seeking. The waivers will allow the discussion to move forward.

Member Rogers responds that the discussion can follow on the rise or fall of a vote. It has already been proposed that the sidewalk access go through Cherokee Lane. The applicant does not own Neelon Lane so the sidewalk on Neelon Lane is mute in his eyes.

The Chairman responded that it is within the Boards purview. The Board must come to the findings. We have heard from some of the residents about this. Their proposed plan does not include sidewalks, but an emergency access through Cherokee.

Member Gay wants the Board to be careful to not lump a lot of questions into a vote. There may be a series of votes. It gets messy when things get lumped together.

The Chairman states that there is either access or not. You have to agree that the right of way exists, that it is a 25 ft wide way and there is a right to pass. It is not the Board's responsibility to make sure it is on the location that it is supposed to be on, that is to be done by the applicant.

Town Counsel responds that the applicant has submitted a plan to the Board saying that this is where they think the road is. The abutters disagree because of the noted issues. The Board needs to make a finding. The applicant needs to make a prema facsia case. If there is not adequate information, and you feel strongly enough, then the Board needs to vote accordingly.

Member Spiller-Walsh wants to know if the Board can ask that question of Counsel.

Town Counsel responds that she would need to do some serious research on this before any opinion is given. She has reviewed what has been supplied to her. Any decision can be appealed to Land Court or Superior Court. The Court will be the deciding opinion if it is appealed. The Board needs to approve or deny and give the findings.

The Chairman responds that if the road is not where it is supposed to be, that makes the McDonald property a non-conforming lot.

Town Counsel asks if the applicant can meet the criteria of the special permit.

Member Gay responds that the dispute could shift the road either way and could accommodate either way on the width of the pavement. Nothing says that the road needs to be in the middle of the road. Member Gay is looking at the numbers and the dimensional integrity of this exercise.

Member Rogers and Member Spiller Walsh have a difference of opinion on the interpretation of the Tetra Tech letter.

Member Gay read the last paragraph of the letter from Tetra Tech.

The Chairman wants to know what dispute exists now.

Member Spiller-Walsh responds that the dispute is the positioning and layout of Neelon Lane and the location is not clear.

The Chairman believes that the information provided to the Board is sufficient, and there is not a dispute with the parties.

Town Counsel reiterates that it is the Board's job is to make findings and render a decision based on the evidence presented at the public hearing.

The only concern of Member Spiller-Walsh is where the road goes. There needs to be some sort of consensus before this project proceeds. This has a huge impact on the abutters. It will impact the abutters directly on where those 4 feet are.

Member Rogers notes that Spiller-Walsh is the only one who thinks there is a dispute.

Member Spiller-Walsh responds that there is no clarification on where the road is going to be.

Chairman Rodenhiser wants to know what questions exist when you look at the plan from Guerriere and Halnon and what other evidence draws you to the issue that you are making?

Member Spiller-Walsh communicates that she does not take any of the letters which were written as gospel.

Town Counsel reminds the Board that they are a quasi-judicial board and must fact find and base their decision on the evidence submitted.

The Chairman responds to Spiller-Walsh that the Board will use the logic that member Gay has referenced.

Member Spiller-Walsh responds that the applicant did this to make the road more flexible, and that was an improvement to the paved way.

The Chairman reiterates that the road is 18 feet and that is what we asked for and if we apply the reasoning of member Gay, we have seven feet of play to get it right.

Member Spiller –Walsh responds to the Chairman asks if he as a Board member is comfortable with the flexibility of the paved way, and is there is enough flexibility to avoid creating an egregious situation.

The Chairman responds that we look at the edge of the right of way, if it shifts away, what becomes of the McDonald property line, we would have a lot without frontage.

Member Gay notes that there is a combination of hard evidence, along with what is on the ground and the descriptions provided to support the right to pass.

Member Spiller-Walsh notes that it is now for us to decide whose findings we believe.

Member Gay communicates that there are so many opinions out there. The Board has paid a consultant to interpret that interpretation which was presented. It was determined that they have a right to pass. There can be a dispute on the location on the ground, but if we decide this with a tolerance of 3 to 4 feet either way, why is there a problem?

Member Spiller-Walsh responds that the pavement is not an issue. The possibilities of the pavement and how it will affect the abutters is the issue.

The Chairman responds that this will affect the abutters.

Member Rogers communicates that the applicant has the right to use the land. By having only 13 houses, this would not be detrimental.

The Chairman asks the Board if they find that the access is adequate.

Member Rogers wanted to know when was the first public hearing for Charles River was?

Susy Affleck-Childs indicated that the public hearing started on August 24, 2010.

Member Rogers communicates that the Board has been reviewing this project and accepting testimony for over 6 months. He states the Board could have finished this in two months.

Mr. Yorkis communicates to the Board that the information was requested by your Board.

Member Spiller-Walsh does not believe she has the letter from Tetra Tech Rizzo dated February 4, 2011.

Member Gay read the letter from Tetra Tech Rizzo dated February 4, 2011.

The Chairman asks the Board if they agree with the adequacy which exists and is the 25 foot right of way adequate for the project.

Town Counsel has recommended that the Board hold off with further discussion until member Bob Tucker returns from the BOS meeting.

NOTE - Member Tucker returned at 8:53 pm.

The Chairman provides an overview about the discussion to member Tucker.

The Board then continues and begins to discuss the questions which Spiller-Walsh provided to Counsel and the Board.

Affleck-Childs explains that the intent of the OSRD formula is to match the number of units for a conventional development but in this case it may not. But the formula is precise.

The Chairman noted the Board needs to decide what evidence supports or does not support a finding within the decision.

Member Tucker wanted to know if the Board is required to know where the street is before we come up with the findings.

Town Counsel responded no.

Member Tucker wanted to know what kind of accuracy is required.

Town Counsel responds that there is no sort of accuracy required within the bylaw. The applicant has submitted plans to be reviewed, and a question has been raised by the abutters whether the plan accurately depicts the statutory private way. The Board then requested additional information from the applicant and this was provided. All the evidence is before the Board. The public hearing has been closed and all the evidence is before the Board to render a decision. Now the Board has to determine if the applicant can build this road where he intends to build it.

The Chairman then references a February 4, 2011 letter which was presented by Tetra Tech Rizzo. The Quinn letter was referenced in relation to the westerly property lines.

Member Tucker confirms that the McDonald property would be pre-existing, non-conforming. This fact has no bearing in relation to the location.

The Chairman indicated that the McDonald property had frontage at some point.

Member Tucker explained that when the McDonald property was divided and sold to McDonald, using reasonable data which was available at the time, it was determined that the right of way abutted that property. There is nothing in the letter that would convince him otherwise. There was frontage since there has been nothing referencing a variance.

Member Gay explained that he can accept the right of way as 25 ft wide or in that vicinity and that there is a right to pass and repass by the abutters. The dispute is in the regards to the 3 to 4 feet either way. The question Gay asks was, if the actual width of the access road fits within the 25 foot right of way and does not exceed the tolerance of the dispute, are we ok? There is still 19 feet and we are discussing an 18 foot roadway. He is not worried about if the lots are legal. The real question is if the paved roadway can fit within the right of way given the tolerance.

Member Tucker states he is looking if the proposed access will fit within the right of way and the answer is yes.

Member Gay communicates that if it does not favor either side of the dispute, then there is no damage to either side. The proposed access can fit within the right or way and tolerance.

Member Tucker also agrees that the access will fit within the right of way. The location of the road will not change a whole lot based on whatever records you go by.

Member Spiller-Walsh communicates her concerns to member Tucker. The location of the road is important since it affects the frontage of the abutters and the amount of linear footage she may have or not have. It will also affect Mr. Bancewitz's property in relation to how much actual space there is next to the roadway. It will have an impact.

Member Rogers feels there is enough access. He further communicates that no matter what the Board does, we will not determine how much this shifts. It will ultimately be where the Land Court comes in if someone appeals the decision. The Board does not draw the Land Court in.

The Chairman asks if the Board is in agreement that there is enough access.

The Board is in agreement that there is enough access.

Member Spiller Walsh states that the only hang up she has is in relation to location.

The Chairman wanted to know if Spiller-Walsh wants the Board to make a finding that the location be somewhere else.

Member Spiller-Walsh indicates yes.

Member Rogers states he is ready to approve the plan as presented in the location noted on the plan.

Member Tucker communicates that the information is reasonable but he will not say accurate.

Member Spiller-Walsh agrees that the plan is reasonable but not accurate.

Member Tucker responds that this is reasonable based on what he has seen.

The Chairman wanted to know if the information or any other information presented is more reasonable.

Member Tucker agrees with the methodology used by the applicant.

Member Spiller-Walsh is not sure.

The Chairman asks Town Counsel for her understanding of the location of the road.

Town Counsel explains that with the plans which have been presented, and when the Board votes on this Special Permit, you as a Board are voting on the location of it as presented on the plans.

Member Rogers moves to approve the plan in relation to the location as presented.

The motion dies for lack of a second.

The Chairman appreciates what member Rogers is trying to do in trying to move this process forward. The Court cannot change the location. The Board is simply approving the plan. The Chairman explained that he is in support of the drawing as presented by Mr. Yorkis. It was the letter from the applicant dated February 4, 2010 that helped to formulate his opinion.

Mr. Yorkis wanted clarification about what dated plan the Board is referencing.

The Chairman indicated the plan dated December 29, 2010.

The Chairman now moves to reference the OSRD Special Permit Worksheet. (See Attached)

Consultant Carlucci informed the Board that the findings should make reference to the four step design process. It is not a criteria but part of the process for achieving the criteria.

Member Spiller-Walsh communicates that there needs to be some discussion about the Four Step Design Process. She further explains that there are flaws with this.

Consultant Carlucci communicated how you should reference the four step design process. It is not a criteria but part of achieving the criteria. Consultant Carlucci will draft language for the Board to review.

The Chairman explained that the decision will incorporate the documents which were presented.

The Chairman asked if there are any other questions to be answered by Town Counsel.

Member Spiller Walsh notes that with the number of units in the yield formula, she feels there is a conflict between the purpose and intent section of the bylaw and the yield formula. There is also a problem with the density in relation to the intent of the bylaw.

Town Counsel responds and advises that the Board must go from the formula as it is written. The Board must look at the Bylaw as a whole. A Bylaw helps guides the Court to reconcile any ambiguity. In the law of court, something more specific prevails over a general statement. If there is a specific formula to calculate the number of lots, it would take precedence over a general statement. It is important to make sure the Bylaw reflects what the intent is. If the intent does not match the bylaw, then it should be changed, but not on this application.

The Board now switched to discuss the questions from Spiller Walsh referencing #3.

Town Counsel is not sure if this is truly a legal question.

Town Counsel notes that it is up to the Board to determine if there is adequacy.

Member Spiller-Walsh notes that if land is on a steep slope, the Board can decide to consider or not consider it as open space. The Board can decide if it is adequate or not adequate. She asks Town Counsel if this is adequate and still viable.

Town Counsel does not know if it is viable, but it is the Board's decision.

Member Spiller-Walsh wants to know if the Board has the right to mitigate matters with neighbors.

Town Counsel stated that there is no particular role the Board plays in mitigating. You basically make a decision. The Board can place conditions upon that decision. The Board does not have a role as arbitrators.

Spiller-Walsh now wants to discuss the open space. A scenic view and vista is called out for in the bylaw and since this is an aesthetic term and not a planning term, can that be a driving force for existence for the OSRD? Can a vista be preserved or created by part of the existing elements on the land?

Town Counsel would need to look at the land and how the bylaw is worded to address this. She asks Spiller-Walsh what she is trying to do.

Karyl Spiller-Walsh is trying to link the development of the lot and the element to the open space by opening it up.

Town Counsel informs the Board that there is a criteria established. Conditions can be placed upon that, but she warns the Board that if they go beyond that, it can be challenged. This is a special permit and if the yield has indicated that the applicant can put up 13 units, and you tell them that they can only have 11 units, the applicant can challenge. There is some discretion.

Karyl-Spiller-Walsh communicates that with the OSRD there is clustering and the land becomes embellished. The land image is what you are trying to preserve through the OSRD, otherwise why not do a conventional subdivision?

Chairman Rodenhiser responds that the density is needed to preserve the open space land. He notes that member Spiller-Walsh would like the two units to be taken out to create a vista, but the nature of the vista is that the taking out of units creates the vista but is contradictory to the clustering which is the intent of the bylaw. The formula takes care of this. The formula is what it is.

Member Spiller-Walsh responds that there are enough people that would agree that this is exactly why the open space bylaw was created for the purpose of creating these vistas.

The Chairman responds to member Spiller-Walsh, so is it your idea is to take those two units out to create a vista?

Member Spiller-Walsh responds that this would not be the first time.

Member Rogers states that member Spiller-Walsh is taking up Town Counsel's time and the Board has to pay for her time, when some of these issues are not legal issues.

NOTE - Town Counsel will be reviewing the decision once it is written.

The Board then moves to discuss the design standards from the Findings Worksheet.

Member Tucker wants to know how the Board is suppose to address these items when they have no idea what the drainage is going to look like.

The Chairman communicated that the drainage will not be shown until drainage plan comes in at the next stage.

Member Tucker wants to know what is the basis for this worksheet.

It was communicated that the worksheet is to be used to guide the Board in making their decision.

Design Standards – The following General Design Standards shall apply to all OSRDs.

(a)The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.

The Board is comfortable that the landscape will be preserved in its natural state by minimizing the removal.

(b)Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.

Member Tucker notes that there are no major issues.

The Board discussed that it is possible that a better design could have been developed that preserved and enhanced views. It was also discussed that the requirements of the OSRD Bylaw (required 30' between buildings) constrained the design somewhat. The street provides closer access to views of the open space while the building locations inhibit those views.

Member Gay is not totally convinced, but does not know why he is not convinced.

Member Spiller-Walsh does not have any trouble with any of it, but there could be an amazing vista to the pine trees at the end. This is now blocked by the circular concept. No, on that basis.

Member Rogers notes that this is not excessive cramming.

Member Gay does not have anything particular he can take on as a reason. Whenever the Board talks about the maximum numbers, everything is at the minimum, all the setbacks. He thinks that the formula works and the numbers work and he does not have a lot to dispute, but it is one of those things that his logical brain says that it is ok and his emotional brain thinks it could have been better.

The Chairman communicates that he is fine with the way that the development lays out. The vistas are there but you have to look between the buildings.

(c)The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship

to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.

Member Tucker wanted to see the pictures of the proposed architecture.

Member Spiller-Walsh communicates that the represented home is a good direction.

Member Gay references that the homes would be 1200-1800 square feet.

Susy Affleck-Childs showed the pictures of the houses to the Board members.

Affleck-Childs read the letter from the Design Review Committee to the Board members. She informs the Board that as a condition of the findings, the Board can write that the applicant would need further review at another point from the Design Review Committee.

The Board did discuss that there is limited information about the building design concepts. The requirement has been met, but additional information and details regarding the building designs as well as additional review by the Design Review Committee will come at the Definitive Plan Stage.

(d)All open space (*landscaped and usable*) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

The Chairman needed clarity about the area of the “legal” open space.

Susy Affleck-Childs communicated that this should be interpreted broadly.

Member Rogers notes that most of it is wooded but left in its natural condition.

Member Gay mentioned that a discussion needs to take place about whether that open space is even accessible. Is it in the better interest to that neighborhood and property to not open it for public access? The design is to leave it alone.

Member Spiller-Walsh responds that the plan mentions all open space and the space near the road and the rain gardens and spaces between the property. It includes all of that.

Member Gay reiterates that maybe it is in the Town’s best interest to not have this public access and leave it alone.

Member Tucker suggested that this item be revisited at the next stage of review.

Member Rogers agrees to leave it as it is and not have public access.

Member Rodenhiser is comfortable with just leaving it.

The Board proposes to leave it in its natural state and not allow public access.

Member Tucker wants to know what the vistas look like and the information is not available to the Board yet. This will have to be discussed and looked at further down in this process. He has no problem with what has been shown thus far.

Member Gay responds that once they go to a Definitive Plan would we need more knowledge about what direction those would be? When he looks at the neighborhoods around the site, there are dense neighborhoods around it, there is limited parking, there are big pieces of private property and by opening that area to the public, it opens the property to be tromped on. But we could preserve it in some form for the buffer and not add traffic to those neighborhoods and open the possibilities for private property to be breached. He sees this as a fundamental issue.

The Board finds that this requirement is met.

(e)The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

The Chairman asks if the members have a problem with the first house being razed/demolished.

Member Tucker asks how old is the house, and does this have to go to the historical society.

Susy Affleck Childs explains that if the home is over 100 years old, and a demolition permit is applied for, it may need to be reviewed by the Historical Commission. This is done through the building inspector.

Member Tucker notes that there is a process in place for this.

Susy Affleck-Childs suggests that language be added to reference that this may be subject to the demolition bylaw and must go through the process.

The Board finds that this requirement is met.

(f)Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.

The Board is comfortable with the housing type being detached single-family homes.

(g)Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning & Economic Development Board.

The Board is in favor of the adding language to indicate that the maximum number of shared driveways be created to reduce the surface area. It was also discussed that the applicant should

consider additional shared driveways in its Definitive Plan. The Board finds the requirement is met.

(h) Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space.

The Board is ok with this.

(i) A fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning Board, shall be located along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements.

The Board would like to recommend some buffer. In the Definitive Stage it could be noted that they get recommendations from the Design Review Committee. One example might be staggered pine trees.

Member Gay would like to see a buffer at the North end northern to Cherokee.

The Board would like to see some language added in relation to a visual buffer.

(j) A minimum of two (2) off-street parking spaces shall be required for each dwelling.

The Board discusses that the concept plan does indicate a minimum of 2 off-street parking spaces per dwelling unit. The plan also shows 2 additional parking for public parking. The Board finds that the requirement is met.

(k) Sidewalks shall be provided along the entire frontage of the OSRD tract along the existing Town ways including the frontage of any lots held in common ownership with the parcels within five (5) years prior to the submission of the OSRD Special Permit application.

The Board discussed that there were no sidewalks proposed along these ways, but a walkway is proposed to connect the end of the private way within the development to the existing end of the paved portion of Cherokee Lane.

The Board also discussed making a contribution to the sidewalk fund in lieu of the sidewalk construction.

The Board will continue its discussion and deliberations for Charles River Village on March 8, 2011 at Sanford Hall.

Adjourn:

On a motion made by Bob Tucker, and seconded by Tom Gay, the Board voted unanimously to adjourn the meeting at 10:30 pm.

Future Meetings:

The next meetings scheduled are:

- Regular Meeting March 8 & 22, 2011
- 2011 Annual Town Meeting – Monday, May 9, 2011

The meeting was adjourned at 10:30 PM.

Respectfully Submitted,



Amy Sutherland
Meeting Recording Secretary

Edited by,



Susan E. Affleck Childs
Planning and Economic Development Coordinator

OSRD Special Permit REVIEW CRITERIA WORKSHEET

PROJECT NAME: _____

Dimensional Requirements - The Planning & Economic Development Board may authorize modification of lot size, shape, and other bulk requirements for lots within an OSRD, subject to the following limitations:

- (a) Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved, provided, however, that the Planning & Economic Development Board may waive this requirement where it is determined that such lot(s) reduced area and/or frontage are consistent with existing development patterns in the neighborhood.

- (b) Lot frontage shall not be less than fifty feet (50').

- (c) Each lot shall have a front setback of at least twenty-five feet (25') unless a reduction is otherwise authorized by the Planning & Economic Development Board.

- (d) Each lot shall have a minimum of fifty percent (50%) of the minimum required lot area for the zoning district in which it is located. (ARI = 44,000 sq. ft; ARII = 22,500 sq. ft.)

- (e) Building footprints or envelopes shall be shown on the plan, and no structure shall be located closer than thirty feet (30') from any other-structure. Furthermore, a landscaped buffer shall be provided between houses to enhance privacy.

- (f) Garage doors facing the street shall be set back a minimum of five feet (5') more than the front wall of the principle building. No more than fifty percent (50%) of the garage doors within an entire OSRD shall face the street from which it is accessed. These requirements may be waived by the Planning & Economic Development Board for corner lots where the garage door faces a different street than the front of the house or for other extraordinary circumstances that the Planning & Economic Development Board deems to be in the Town's best interests.

Open Space Requirements - A minimum of fifty percent (50%) of the tract shown on the concept plan shall be open space. For purposes of this section, open space shall be considered to be land left in its natural state and/or land used for any of the purposes described in item (c) below. Open space is to be owned and managed as outlined in item (f) below. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

Total Land Area of OSRD _____

Total Area of Open Space _____ As a % of total land area: _____

- (a) The percentage of the minimum required open space that is wetlands shall not exceed the percentage of the total tract that is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in any proposed open space beyond the minimum.

- (b) The open space shall be contiguous. Open Space will be considered as contiguous if it is separated by a roadway or an accessory amenity. The Planning & Economic Development Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect the identified Primary and Secondary Conservation Areas.

(c) The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, parks, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Planning & Economic Development Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (*i.e., pedestrian walks and bike paths, playgrounds, or other recreation facilities*). The open space shall be accessible to the public, unless the Planning & Economic Development Board waives this requirement because it deems that it is in the best interests of the Town to do so. The Planning & Economic Development Board may require a minimum number of parking spaces to facilitate such public access.

(d) While protecting resources and leaving land in its natural state is a primary goal, the Planning & Economic Development Board also encourages the use of open space to provide active and passive recreation in the form of commons, parks and playgrounds to serve the needs of the development and surrounding neighborhoods.

(e) Wastewater and stormwater management systems serving the OSRD may be located within the open space. However, surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.

(f) Ownership of the Open Space - The open space shall, at the Planning & Economic Development Board's discretion, be conveyed to:

- (1) The Town or its Conservation Commission, upon its agreement;
- (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above, upon its agreement;
- (3) A corporation or trust owned jointly or in common by all owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning & Economic Development Board for approval, and shall thereafter be recorded.

Design Standards – The following General Design Standards shall apply to all OSRDs.

- (a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways should be treated as fixed determinants of road and lot configuration.
- (b) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.

- (c) The development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall relate to their surroundings in a positive manner.

- (d) All open space (*landscaped and usable*) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

- (e) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

- (f) Mix of Housing Types - The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than 5 dwelling units.

- (g) Common/Shared Driveways - Common or shared driveways may be allowed at the discretion of the Planning & Economic Development Board.

- (h) Each OSRD dwelling unit shall have reasonable access to the open space, but does not need to directly abut the open space.

- (i) A fifteen foot (15') wide visual buffer area consisting of natural vegetation, earthen materials and/or additional landscaping and/or fencing, acceptable to the Planning Board, shall be located along the perimeter of the OSRD tract, unless a reduction is otherwise authorized by the Planning Board. A determination to reduce the size of the buffer area shall be based on the proximity or lack thereof of abutting residences, the extent and screening effectiveness of any existing vegetation which may serve to buffer abutting properties, and/or the need to use the buffer area for access or utility easements.

Decision of the Planning & Economic Development Board - The Planning & Economic Development Board may grant an OSRD Special Permit if it determines that a proposed OSRD has less detrimental impact on the tract than a conventional subdivision development proposed for the tract, after considering the following factors:

- (a) Whether the OSRD achieves greater flexibility and creativity in the design of residential development than a conventional plan;

- (b) Whether the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources;

- (c) Whether the OSRD promotes less sprawl and a more efficient form of development that consumes less open land and better conforms to existing topography and natural features than a conventional subdivision;

“CHARLES RIVER VILLAGE-OSRD”
MEDWAY, MA
July 28, 2010

19. Waivers- PRELIMINARY WAIVER WORKSHEET

As you know, the “Charles River Village” Open Space Residential Subdivision is a condominium project rather than a traditional single-family residential subdivision. Because the Town of Medway Planning Board Subdivision Rules and Regulations are focused upon conventional single family residences the Applicant is requesting each of the following waivers based upon our experience with previous OSRD projects.

WAIVERS RELATING TO THE SUBDIVISION RULES AND REGULATIONS

- 5.6.3 NAVD 88 Datum -**
Plans reference NGVD 1929 to correspond to current Town of Medway FEMA Flood Plain mapping FIRM Community Panel Number 250243-0005-B effective date June 18, 1980.
- 5.7.19 Layout of Proposed Electric, Telecomm, Gas, & Cable TV Utility Lines**
NSTAR is the utility in the Town of Medway that prepares the initial design for underground utilities for electric, phone, and cable service. Verizon and Comcast follow the NSTAR design. Additionally, NSTAR will not begin the design process until they receive three (3) copies of the endorsed plans. The underground utility services will be shown on the as-built plans.
- 5.20.2 (a) Ways and service to be complete before such lot may be built upon.**
- 6.4.1** Allow for one (1) single family unit building permit with no occupancy until completion of driveway base coat.
- 6.6.3 Partial Bond Release**
“Private Way” will be a Private Roadway when constructed.
- 6.8.1 Street Acceptance: Legal Description, Deeds, & Easements**
“Private Way” will be a Private Roadway when constructed.
- 6.8.2 Street Acceptance/Infrastructure Acceptance Fee**
“Private Way” will be a Private Roadway when constructed.

6.8.3 Street Acceptance Plan

“Private Way” will be a Private Roadway when constructed.

6.8.4 Pre-Acceptance Inspection & Review by Other Town Boards

“Private Way” will be a Private Roadway when constructed.

6.8.6 Board Recommendation

“Private Way” will be a Private Roadway when constructed and therefore will not be recommended for acceptance on the Town Meeting Warrant.

6.8.7 Town Meeting Warrant

“Private Way” will be a Private Roadway when constructed and therefore does not need to be on the Town Meeting Warrant.

6.8.8 Board of Selectman Establish Roadway Layout

“Private Way” will be a Private Roadway when constructed and therefore the Board of Selectmen need not take any action.

6.8.9 Approval of Street Acceptance Plans

“Private Way” will be a Private Roadway when constructed and therefore the Board of Selectmen and Planning Board are not required to endorse any plans.

6.8.10 Town Meeting Acceptance

“Private Way” will be a Private Roadway when constructed and therefore no action is required at a Town Meeting.

6.8.11 Recording

“Private Way” will be a Private Roadway when constructed, no action will be taken by the Board of Selectmen, Planning Board, or Town Meeting and therefore no recording is necessary.

7.9.1.e Number of Dwellings on a Private Way

The Town of Medway subdivision rules and regulations state “d) Use of Local Street construction standards is required for subdivisions of six (6) and more lots/dwelling units.” (It should be letter “e” as it is the second “d” as the regulations appear on the Town Web Site.) The waiver request is for a Private Roadway which will not conform to all of the construction standards.

7.9.4.a Minimum Right of Way width = 50 ft.

7.9.7.g Minimum Roadway Width for a Local Street

“Private Way”, a Private Roadway, is proposed to have a pavement width of eighteen (18’) feet which is less than that for a Neighborhood Street width of twenty (20’) feet.

7.10.2 Sloped Granite Edging (Type S-A) Roadway Curbing

“Private Way” is proposing to utilize a low impact development design. Curbing will not be proposed along all of the edges of the Private Roadway. Where necessary for drainage purposes cape cod or bituminous style curbing will be used.

7.13.2 Sidewalks shall be 6 ft. wide. – No sidewalks are proposed

7.13.3 Sidewalks shall also be provided along the entire frontage of the subdivision parcel along existing Town ways

No sidewalk is proposed on Neelon Lane on the plans as part of the Special Permit and none will be proposed as part of the definitive plan review. There are no existing sidewalks along either side of Neelon Lane due to the existing right-of-way width. The frontage of the property on Neelon Lane is 23.70 ft.

7.19.2, 7.19.4 Street Trees

The applicant in compliance with the OSRD bylaw will prepare and submit a landscape plan for the entire project.

WAIVERS RELATING TO THE OSRD BY-LAW

Reserved for Future Use