

**January 24, 2012  
Medway Planning and Economic Development Board  
Medway Senior Center – 76 Oakland Street  
Medway, MA 02053**

**BOARD MEMBERS PRESENT:** Andy Rodenhiser, Bob Tucker, Tom Gay, and Chan Rogers

**ABSENT WITH NOTICE:** Karyl Spiller-Walsh

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck Childs, Planning and Economic Development Coordinator  
Amy Sutherland, Meeting Recording Secretary  
Dave Pellegri, Tetra Tech Rizzo  
Barbara Saint Andre, Town Counsel  
Thomas Holder, Director Medway DPS  
Owen Sullivan, Speroni Acres developer  
Lou Caccavaro, attorney for Owen Sullivan  
Rick Merrikin, Merrikin Engineering for Owen Sullivan

The Chairman opened the meeting at 7:00 pm.

The Chairman asked for any citizen comments.

**Minutes:**

**January 10, 2012:**

**On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to accept the minutes from the January 10, 2012 meeting.**

**Release Subdivision Covenant – 25 Azalea:**

**On a motion made by Bob Tucker and seconded by Chan Rogers, the Board voted unanimously to approve the release of subdivision covenant for 25 Azalea Drive. (See Attached.)**

**Speroni Acres Neighborhood Meeting**

The Chairman introduced the board members of the Planning and Economic Development Board.

The members of the audience introduced themselves.

The Chairman explained that the Planning and Economic Development Board invited the Speroni Acres neighborhood to the meeting for the purpose of updating the neighbors on where things stand with various aspects of the subdivision and to inform the neighbors of what issues need to be addressed as the possibility of street acceptance is considered.

The topics to be covered for the evening include status of the stormwater drainage, needed repairs, ownership of and responsibility for the force main sewer system in the neighborhood, and steps for the streets to be “accepted” as public ways by the Town.

Dave Pellegrini of Tetra Tech Engineering, the Town’s engineering consultant, explained the drainage history of the site along with explaining current conditions. There were visuals of the site shown. He explained that the approved subdivision plan was signed in 1998. The drainage ponds were highlighted in yellow. There is an easement line in blue. The red line is the sewer line. The green line is the wetland line. Since this time, an as-built plan was presented in 2004. VHB, the Town’s prior consulting engineer, found and concluded that the as-built plan did not represent the actual conditions in the field. Next, the developer hired another engineer and another as-built was prepared. This was provided and shown. The 2009 as-built shows three detention basins. Basin #2 as constructed does not fall within the drainage easement boundary as shown on the definitive subdivision plan.

Dave communicated that he was asked to confirm the location of the detention basins. A survey was done and it was verified that the 2009 as-built is accurate. Dave indicated that he has met with Rick Merrikin of Merrikin Engineering regarding the performance of the basins. The basins appear to be in the same area but are a different shape. He checked to make sure the basins would perform as designed. There were minor modifications of the outlet structures. This was reviewed. Dave agreed with the evaluations.

The calculations for basin #2 are ok. The issue is that it falls outside the easement.

The other basins function and have stabilized with mature growth. The recommended approach is to leave the basins as they are but modify the outlet structure so that the capacity is the same.

One of the residents indicated that he lives next door, and during the heavy storms last March the basins were functioning.

The next part of the presentation was from the Department of Public Services Director, Tom Holder. He communicated that the knowledge he has is limited since he recently came on board with the Town and he is not in a position to discuss the layout. He did read all the materials presented. It is his view that the Town will not take the ownership of the force main system.

Dave Pellegrini indicated that he did review how the system functions and the liquid goes down to a manhole. This is a force main with individual systems. The force main comes down Rustic Road and then becomes a gravity system which goes to Summer St.

Owen Sullivan communicated that he was asked to put a second line in just for others who may want to tie into the system in the future.

The Chairman noted that the second line should be shown on the as-built plan.

Rich Merrikin indicated that he will work with the as-built plan preparer to develop an as-built plan that shows everything.

Tom Holder noted that the town will only accept flow from gravity line. This will start from the manhole on Summer Street.

Member Rogers responds that the Water and Sewer Commission has no responsibility for the operational side of the force main system.

Chairman Rodenhiser explained that the Water and Sewers stance was to not allow force mains in the public way.

The residents explained that currently, when there is a break, whoever's property the break happens on, is the one who pays for it.

Chairman Rodenhiser reiterated that by forming an association, this allows the association to deal with problems in a more efficient and fair way.

An abutter responded that he appreciates that the neighbors were notified. He does not want to create an adversarial atmosphere. He wants to know what was the basis for the Department of Public Services to not accept the force main system.

Tom Holder responded that it was not originally intended to be accepted.

The abutter again asked, what is the basis for it not being accepted?

Tom Holder responded that on each deed it specified that there are individual pumps. Another reason is that the force main is on private property. The meeting minutes of the Water/Sewer board indicated that there would be a Homeowner's Association formed and abutters would need to get the approval and join the association. This was always intended to be managed by the homeowners association.

Chairman Rodenhiser further explained that he has tried to get the Water and Sewer Commission to accept a force main system in the 495 industrial park area. It has been a long standing policy of the Town to not allow force main systems.

The abutter wanted to know why establishing a home owners association was not part of the subdivision approval. It is impossible to form an association now. This is not practical.

The Chairman responded that the Planning Board does not cover anything to do with the permitting process for Water and Sewer Commission.

The abutter also wanted to know why two property owners on Summer Street did get approval to join the system.

One resident wanted to know how Fasolino was able to tie into the Town system for his property at 25 Summer Street.

Susy Affleck Childs communicated that when the Planning Board reviewed this, Mr. Fasolino indicated that he secured permission from Owen O'Sullivan to tie in. The information about the ownership of the sewer system was not as clear then as it is now.

Dave Pellegri expressed that the easements are labeled but need to be defined.

Chairman Rodenhiser communicated that the easements are probably owned by Owen O'Sullivan, but they may not be recorded.

Owen O'Sullivan responded that the easements are recorded, and his thought is that they were going to the Town of Medway.

The Chairman communicated that the easements could be deeded to a Homeowners Associations. One of the residents noted that it will be difficult to put together a Homeowners Association at this point.

Lou Caccavaro, the Attorney for Owen O'Sullivan, communicated that it is not difficult to form a Homeowners Association.

An abutter asked if the easements are owned by Owen, would that change the DPW position?

Tom Holder responded that he would be legally bound to maintain the easements if those were given to Town.

Town Counsel indicated that the Town does not have to accept easements.

One of the residents wanted to know would the town have the right to refuse street acceptance.

Town Counsel Barbara Saint Andre responded that yes the town is not required to accept any street.

Another resident asked what happens if a break happens in the middle of the line?

Chairman Rodenhiser responded that if there is a break, the Town has no obligation to do anything. There is still a subdivision bond in place. The insurance company providing the bond cannot get a release until this is approved. The Town has been working on this for three years. There are lots of issues which need to be resolved.

Owen O'Sullivan communicated that he did not build the houses or put the systems in. This was done by different builders. He subdivided the land and sold off house lots. He did not install any of the systems. He did communicate to each builder that they had to leave a stub for each parcel.

One of the residents wanted to know if there was a signed sewer plan.

Member Rogers responded that the Water & Sewer Board would not accept a force main system. The issue came up 2 years ago when an overflow problem happened at Rustic Rd. When the residents of Speroni Acres signed their deed this must have been indicated. He further explained that a Homeowners Association works great in the Commonwealth.

Owen O’Sullivan explained that the design was always to have individual pumps at each house.

Rich Merriken communicated that this is what is called a low head sewer system. The purpose of this type of system is to service only a few houses. This is an E1 pump. This is very common on the Cape and not unusual. He has seen it in Medfield, Walpole and Hopkinton.

Town Counsel Barbara Saint Andre explained the street acceptance process. The first step is making sure that the subdivision is completed. The as-built plan must be prepared and a street acceptance plan presented to Board of Selectmen. The Board of Selectmen will determine if they accept the layout. Then it will be sent to the Planning Board for acceptance at which point it goes to the Town Meeting for a vote of the town. All of the titles and easements will need to be examined. There are 120 days to get all this recorded after the town meeting. If there is no clear title, it could be taken by eminent domain.

Member Tucker noted that basin #2 falls out of the easement and this will need to be rectified.

NOTE – In January 2011, Owen Sullivan filed a subdivision plan modification to reflect the changes that need to occur in the detention ponds. There is a 10 to 15 foot strip needed to maintain this and would involve the property owner granting an easement. The easements will need to be looked at. This impacts only Lot #9.

The Attorney communicated that the work on the modification plan has been completed.

Rich Merrikin noted that an easement plan will need to be presented. This will need the consent of the homeowner.

Susy Affleck Childs communicated that the town needs to get the funds from the developer to work on solving some of the issues. The Town cannot proceed without the funds to compensate the Town’s various consultants.

One of the residents wanted to know how to get a picture of the sewer system.

Susy Affleck-Childs communicated that all plans are available to the public, but an updated as-built plan is forthcoming.

Engineer, Rich Merriken responded that he will be working to secure an updated as-built plan which will include the sewer.

One of the residents suggested having a follow-up meeting on the easements.

The Planning and Economic Development Board informed the residents that it is their responsibility going forward to check the website for an agenda item which might include the discussion of Speroni Acres. It was further communicated that they may call Susy Affleck-Childs to ask for information.

### **ZONING BYLAW AMENDMENTS DISCUSSION**

#### **ARI Estate Lots:**

The Board is in receipt of the revised draft dated 1-23-201. (See attached.) A new item #7 was added. The purpose of the estate lots is to provide, through a special permit, for the reasonable use/development of residential parcels which significantly exceed the minimum lot area required by the Zoning District but which do not have the required minimum frontage. The Planning and Economic Development Board or Zoning Board of Appeals may grant a special permit for development of a single family dwelling on a lot in the ARI district which lacks the minimum frontage by designating it as an estate lot. This designation could be for pre-existing parcels or to newly established parcels.

The Board was in agreement that this would help homeowners with backland. It was recommended that Susy speak with the Board of Assessors to determine how many parcels exist which could use this designation.

The sections #8 & #9 need to be reworked. Tom Gay was not comfortable with the language regarding an estate lot shall not be permitted adjacent to any other estate lot. This would create a situation of who was there first? The Board is not comfortable with this.

This document will be revised and presented again to the Board for review

#### **Adjourn:**

**On a motion made by Bob Tucker, and seconded by Chan Rogers, the Board voted unanimously to adjourn the meeting at 9:40 pm.**

#### **Future Meetings:**

The next meetings scheduled are: Tuesday, January 31<sup>st</sup> & February 14 2012.

The meeting was adjourned at 9:40 PM.

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary

Edited by,



Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

## **ARI – Estate Lots**

*sac – revised draft 1-23-2012.*

Add a new item 7. Estate Lots in the ARI zoning district

7. **Estate Lots** – The purpose of estate lot zoning is to provide, through a special permit process, for the reasonable use/development of residential parcels which significantly exceed the minimum lot area required by the zoning district but which do not have the required minimum frontage. The option for an Estate Lot is provided as an alternative to creating multiple minimum size lots under a conventional subdivision plan. This alternative is meant to preserve rural character by reducing density, infrastructure construction, and congestion.

The **PEDB or ZBA** may grant a special permit for development of a single family dwelling on a lot in the ARI district which lacks the minimum frontage required for the district by designating it as an Estate Lot, subject to the criteria as set forth herein. Estate Lot status may be granted to pre-existing parcels or to newly established parcels.

- a) **General Requirements/Conditions** – A parcel which lacks the minimum frontage requirement may be designated as an Estate Lot and utilized for residential purposes provided that all of the following conditions are met.
1. An Estate Lot shall be located entirely within the ARI zoning district.
  2. An Estate Lot shall have a minimum street frontage of least 50' (35', 40'). No point between the public way and the rear of the Estate Lot shall have a width of an Estate Lot be less than 50' (35', 40').
  3. The required frontage for an Estate Lot shall be on a public way accessed by the Town of Medway.  
The area of an Estate Lot, exclusive of the access strip, shall be at least three times the minimum area required for this zoning district. The access strip is the portion of the Estate Lot from the street to the point where the lot width equals one hundred feet or more. The Estate Lot must be capable of containing a square with each side having a length equal to or greater than the standard minimum required lot frontage of this zoning district.
  5. All buildings and structures on an Estate Lot shall be located at least 100' from any street.
  6. Front, rear and side yard setbacks. All buildings on an Estate Lot shall be located a minimum distance of 50' from abutting property lines.
  7. All utilities shall be installed underground.
  8. No applicant shall be eligible for more than one Estate Lot from a single parcel of land, or from adjoining parcels of land held in common ownership, based on the ownership status of the land as determined by instruments and plans on file at the Norfolk County Registry of Deeds.

9. An Estate Lot shall not be permitted adjacent to any other Estate Lot.
10. The maximum length of an Estate Lot access strip shall not exceed \_\_\_\_\_ (400').
11. Access/egress to and from the Estate Lot from the public way shall be within the boundary lines of the lot and shall not be subject to any right-of-way nor any public or private easement over adjacent land.
12. The driveway to be constructed within the access strip to provide access for the house to be constructed on the Estate Lot shall:
  - a. be at least 14' in width and have a vertical clearance of at least 14'. At least the first 50' (25' ) of the driveway shall be paved.
  - b. be located, constructed and maintained at a distance of at least 10' from any abutting property.
  - c. be designed to drain as to prevent damage or hazard to abutting properties. The existing drainage patterns shall not be disrupted by the construction of a driveway on the access strip portion of the Estate Lot.
  - d. have, in the opinion of the **PEDB or ZBA**, acceptable design grade and suitable construction for the safe access and turn-around of vehicles including moving vans, ambulances, fire and police vehicles and delivery trucks.
13. The sight distance at the intersection of the Estate Lot driveway and the street shall be such as to provide for safety to all vehicular traffic.
14. Said Estate Lot shall be in compliance with all other zoning requirements.
15. No Estate Lot shall be further subdivided or developed pursuant to other special permissions except that the ZBA may issue an accessory family dwelling unit special permit pursuant to the provisions of the Zoning By-law.  
The Plan for an approved Estate Lot shall be endorsed "Approved as an Estate Lot." The following notes shall also be placed on the plan: *"Lot shown on this plan shall not be further subdivided."* and *"No building permit shall be issued to construct a dwelling on the subject lot until a copy of the recorded special permit is provided to the Medway Building Commissioner."*

- b) **Application** – The applicant shall submit with the Estate Lot special permit application a plan depicting the proposed Estate Lot.
  1. The plan shall be prepared by a civil engineer or land surveyor registered in the Commonwealth of Massachusetts and shall be in such form as will be required for recording with the Registry of Deeds or filing with the Land Court.
  2. The building area shall be designated on the plan. Front, rear and side yard depths shall be shown.
  3. The plan shall show the frontage and area of all lots abutting and across the street.



4. The plan shall show existing and proposed grading and sloping.
- c) **Findings** - The **PEDB or ZBA** shall not issue a special permit under this section except upon making the following findings:
1. The applicant has provided for safe access for public safety vehicles and personnel to the residence to be constructed on the Estate Lot, and the intersection of such access driveway and the public way has been placed so as to minimize conflicts with curb cuts on abutting lots and to maximize sight distances for exiting traffic.
  2. Egress from the Estate Lot must have no greater hazard owing to grade and visibility limitations than would be expected for a standard land subdivision road at that location.
  3. The development of the property as an Estate Lot will be more in keeping with the character of the adjacent neighborhood and the protection of open space, significant or important natural resources and to historic structures or places (where such features are present) than other development options available to the applicant would be.
  4. The existing drainage pattern shall not be disrupted by the construction of a driveway on the reduced frontage portion of the Estate Lot.
- d) **Decision** - In determining whether or not to grant a special permit for an Estate Lot, and in determining what limitations, conditions, and safeguards if any are necessary on a special permit, the **PEDB or ZBA** may consider circumstances relating to soil conditions, topography, lot history, wetlands, proposed building locations, and public safety and convenience. Such limitations, conditions and safeguards shall be included in the written decision.

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### Issues to Discuss/Decisions to Be Made:

1. Who is the Special Permit Granting Authority? ZBA or PEDB
2. What is minimum width of frontage on a public way? 50' or ???
3. Maximum length of an Estate Lot access strip?
4. How much of the driveway length should be paved?

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