

**September 11, 2012  
Medway Planning and Economic Development Board  
155 Village Street  
Medway, MA 02053**

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

**ABSENT WITHOUT NOTICE:**

**ALSO PRESENT:** Susy Affleck-Childs, Planning and Economic Town Coordinator  
Dave Pellegri, Consultant Tetra Tech Rizzo  
Gino Carlucci, Consultant PGC Associates  
Amy Sutherland, Meeting Recording Secretary

The Chairman opened the meeting at 7:05 pm.

There were no Citizen Comments.

**Construction Report – Dave Pellegri/Tetra Tech Engineering**

**Applegate Farms:**

Dave Pellegri indicated that the drainage construction has been completed with the exception of the structures in the possible new easement area.

Member Tucker wanted to know if the letter went out. Susy indicated that a letter did not go to Ralph Costello. The Board would like the letter to go out next week.

There will be a meeting set up with Tom Holder, Bob Tucker and Susy Affleck-Childs.

Susy Affleck-Childs thought the Board wanted a letter to go to DPS asking for a status.

The Chairman thought a letter was to go to Ralph.

Consultant Pellegri communicated that it was his understanding that Mr. Costello would request a subdivision modification. This is an easy step since he is putting in a bigger pipe. There is no risk from the Town's perspective since the developer would be going with a bigger pipe. The pipe is being put in, but the approved plan does not show that size.

Member Tucker wanted to get something moving forward by addressing this from the Town's stand point. Mr. Costello faces a problem that the initial drainage study was incomplete. He needs to deal with this.

The Planning Board would like Tom Holder to take the lead on this. Susy will follow-up with Tom Holder.

**Pine Meadows:**

Pine Meadows has submitted as-built and street acceptance plans.

The Board communicated that there is a policy in place for street acceptance and the street and infrastructure need to be put in. The Town needs the as-builts. No houses have been built.

The Chairman wanted to know if the Town has a sidewalk crossing permit. This type of permit addresses transgression.

The Board does want to discuss street acceptance at this point.

Consultant Pellegrini indicated that the top coat has been put in.

Susy would like to speak with Town Counsel about the bond and not approving any release of it because the houses are not built. She also recommended sitting with Tom Holder and discussing this situation with him to see how DPS feels about accepting a street before the houses are built.

**Franklin Creek:**

The Chairman wanted to know about the traffic cones at Franklin Creek.

Consultant Pellegrini will follow-up.

The Chairman reminded all that there is a one year warrantee on the road.

**Planning and Economic Development Coordinator's Update/Susy Affleck-Childs**

**Street Acceptance:**

There will be a meeting held September 17, 2012 with the Board of Selectmen to update them on the two target subdivisions for street acceptance. The first subdivision is the Meadows and the second is Claybrook II. There will be a meeting held on September 26, 2012 where the information regarding the title research for the Meadows will be presented. The Claybrook II title research is being reviewed by town counsel and there will be a meeting sometime in mid-October with the neighbors to discuss the findings.

Member Tucker and Chairman Rodenhiser will be at the Board of Selectmen meeting on September 17, 2012.

**Economic Development Specialist:**

A team of representatives met last week to interview the candidate for the Economic Development Specialist Position. The recommended candidate met with Suzanne yesterday and the town is working on contract details. The goal is to have this person ready with signed contract October 1, 2012.

The candidate is outstanding and comes with a lot of experience. The candidate is from Shrewsbury.

**Solar Net Metering:**

The bids were due September 7<sup>th</sup>. Three bids were received and are being reviewed and evaluated.

**Daniels Village ARCPUD:**

Susy met with a prospective developer/buyer of the Daniels Village property (west side of Winthrop Street south of Lovering St). NOTE – The PEDB had previously approved an 80 unit ARCPUD for this site. The prospective buyer is interested in constructing an adult retirement community. The initial permit was withdrawn. Susy will be checking to see if the permit extension statute applies to this project. She will ask Town Counsel to look into it.

The Board of Selectmen is looking to have a joint meeting with Economic Development Committee and the Planning Board to discuss zoning initiatives. The date and time will be set.

**Public Hearing Continuation – Norwood Acres Definitive Subdivision Plan:**

The continued public hearing for Norwood Acres was opened.

Mr. Marshal spoke about the technical issues and talked about the sewer lines.

Mr. Marshall will provide something in writing from his counsel re: title research for the sewer easement. This will take him about three weeks to complete.

The Board would like something in writing such as a report about the usage of the sewer.

It was reported that there are 56 customers who tie in and peak flow is 47 gallons a minute. The capacity is .28%. There are 718 gallons a minute.

Mr. Marshall will provide something on letterhead to the Board for review.

Consultant Pellegri indicated that the flow looked ok.

Susy informed the Board that this development needs an extension of the deadline for PEDB action. She notified Mr. Marshall and he will be asking for that tonight.

There is a section running through Kingston Lane and there is no evidence that the sewer casement was conveyed to anyone. The deed was probably never recorded.

Mr. Marshall does not want to have to maintain this in the future.

There is a loop and two sections connected across his property.

**Deadline Extension:**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to grant the applicant's written request (ATTACHED) for an extension until October 10, 2012 for Norwood Acres.**

**On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh, the Board voted unanimously to continue the public hearing for Norwood Acres until September 25, 2012 at 7:15 pm.**

**Sign Regulations Bylaw:**

The Board is in receipt of a memo from Gino Carlucci dated September 7, 2012 regarding Sign Bylaws. (See Attached)

The Board discussed the options relative to moving the sign bylaw out of zoning and into the general bylaw. The purpose of this would be to look at removing the sign bylaw from the Zoning Bylaw and adding it to the Medway General Bylaw.

Consultant Carlucci provided rationale for the possible switch, and included how some other towns have accomplished this.

Susy sent out a query on the Massplanners list serve and received several responses back.

Consultant Carlucci likes the approach that the Town of Brookline has taken. The Town has addressed the signs in both the Zoning Bylaw and the General Bylaws. Within the Zoning Bylaw there are very specific requirements for signs, which vary by Zoning District. This is similar to the current sign provisions of Medway's Zoning Bylaw.

The Town of Framingham has the sign regulations in its general bylaw. There are specific different standards for different zoning districts. The Framingham bylaw includes a firm date by which signs must be brought into compliance. There was also text indicating that the purpose of the regulations was "remedial" which indicates that it is intended to eliminate nonconforming signs.

The Town of Dedham had no drop dead date for sign compliance. There were provisions for pre-existing non-conforming signs. The setback cannot be increased or decreased depending on new requirements, but they must be in compliance.

The Board next discussed what would be considered a substantial change. This would need to be defined.

Consultant Carlucci responded that the changing of a panel is not considered a significant change.

There are provisions for damage to signs due to natural causes.

Susy indicated that there are some maintenance standards which are currently in place now which could remain, or be added to.

It could be written so that there are different regulations for both which would include the grandfathering component.

Design standards for signs would be better in zoning.

Member Spiller-Walsh wanted to know who you would file an appeal with.

Susy responded that there could be established a separate sign appeal board for when the sign regulations are in the general bylaw. This was done in Dennis.

It was communicated that Brookline does not have a separate sign appeal board. Consultant Carlucci believes that an appeal in Brookline must go to ZBA. He will follow-up and get further information.

Consultant Carlucci also indicated that most variances sought for signs are for size and illumination. Those are difficult factors on which a ZBA can issue a variance.

Member Spiller-Walsh would like to see the bylaws run parallel.

Susy responded that there is not a lot of room for creativity since the zoning bylaw cannot address every configuration.

Member Tucker responded that there are core features which belong in a Zoning approach.

Susy responded that the sign regulations are very prescriptive as to size and quantity.

Consultant Carlucci and Susy will continue researching this and will report back to the Board with refined possibilities for the Town of Medway.

### **TOWN SEAL:**

The Chairman wanted to know where the movement to recreate or change the Town Seal came from.

Susy clarified that discussion about the Town Seal came out of some brainstorming discussion at Design Review Committee.

Member Spiller-Walsh responded that it came from the Planning Board way before the Design Review Committee started discussing.

Member Rogers disagrees. He believes it came from the Design Review Committee.

Susy provide some history noting that some people feel that the current town seal is not graphically strong and Design Review Committee talked about it more and wanted to offer their services to improve this design. They met last fall with the Board of Selectmen and spoke about

their idea and the Board of Selectmen gave the Design Review Committee their blessing to explore some options.

Member Rogers responds that people in town are resentful that the DRC wants to change the logo.

Susy explains that this would have to go to town meeting and it would not be until spring 2013.

Member Spiller-Walsh responded that the current seal has been around 100 years.

It was suggested that a public hearing be heard so all can voice their opinions.

It was noted that the Design Review Committee will be having a meeting with the Board of Selectmen on Monday Sept 17, 2012 to discuss their work on revisions to the Town Seal.

**American Legion:**

Paul Yorkis will be communicating with his client to see what they wanted to do this.

The Building Inspector has been asked for his opinion about a dance studio.

Susy does not know if there has been a formal request for a zoning interpretation.

The Chairman wanted to know if there was a bar and liquor license given to the American Legion. An argument could be made that it should be able to continue to be a bar as a pre-existing use. He was wondering if you market it as a bar or is there a better use.

Consultant Carlucci noted that the liquor license was used as part of a non-profit club.

Susy responded that this is located in the area where we are looking at Village Residential zoning. We could also look at a multifamily overlay district.

It was noted that the building is a prime candidate for affordable housing.

Susy responded that the owner of the property should approach the Affordable Housing Trust or the Trust could approach them.

There could be four residential units. There could be a change in the mechanisms to allow this. It could be done as a 40 B.

**Review DRAFT Certificate of Action for Bay Oaks Subdivision**

Chairman Rodenhiser stepped down from the discussion at 8:47 pm.

The Vice Chairman communicated to the members that it is the intent to review the draft document and make recommendations or comments. Susy will take the comments or recommendations and place them within the document.

Susy communicated that she would like to schedule another meeting next week to finish up the Certificate of Action with the intent to file the decision in a timely fashion.

Town Counsel has the draft decision and will provide comments.

The pages one through 5 are procedural and page six are the waivers:

***CERTIFICATE OF ACTION  
BAY OAKS – A PERMANENT PRIVATE WAY  
DEFINITIVE SUBDIVISION PLAN  
( \_\_\_\_\_ with Waivers and Conditions)***

Location: 104 Fisher ST  
Assessors' Reference: Map 26 - Parcel 20 (formerly Map 4-Parcel 44A-6A)  
Parcel Size: 8.78 acres  
Name/Address of Applicant: Andrew Rodenhiser  
104 Fisher ST  
Medway, MA 02053  
Name/Address of Property Owner: Andrew Rodenhiser  
104 Fisher ST  
Medway, MA 02053  
Engineer: GLM Engineering Consultants, Inc.  
19 Exchange ST  
Holliston, MA 02053  
Land Surveyor: Joyce Hastings  
GLM Engineering Consultants, Inc.  
19 Exchange ST  
Holliston, MA 02053  
Plan Dated: May 18, 2012, last revised August 15, 2012  
Zoning District: AR-1  
Street Name: Dover Lane

## DISCLOSURE

The applicant, Andrew Rodenhiser, is presently an elected member of the Medway Planning and Economic Development Board and serves as its chair. Before submitting any preliminary subdivision application documents to the Town, Mr. Rodenhiser consulted with both Medway Town Counsel Barbara Saint Andre of Petrini and Associates and the Massachusetts Ethics Commission regarding conflict of interest issues. As a result of those discussions, the following actions were taken:

1. Mr. Rodenhiser recused himself from sitting on the PEDB during the public briefings on his proposed preliminary subdivision plan and during the hearings on the proposed definitive subdivision plan. He departed the Board table and sat in the audience as is customary for all applicants during the proceedings,
2. Statement of Disclosure of Appearance of Conflict of Interest – On the advice of Town Counsel, the remaining four PEDB members (Robert Tucker, Tom Gay, Karyl Spiller-Walsh, and Chan Rogers) along with Planning Consultant Gino Carlucci, Engineering Consultant David Pellegri and Medway Planning and Economic Development Coordinator Susan Affleck-Childs prepared Disclosures of Appearance of Conflict of Interest as required by MGL c 268A, section 23 (b) (3). PEDB member disclosure statements were filed with the Medway Town Clerk; staff and consultant disclosure statements were filed with the Medway Town Administrator's office. The existence of such disclosure statements was announced during the July 24, 2012 public hearing.

***I. PROJECT DESCRIPTION:*** The proposed *Bay Oaks Definitive Subdivision Plan* shows four residential house lots on an 8.78 acre parcel of land located in the ARI zoning district at 104 Fisher Street, a Medway Scenic Road. The subject parcel is set back approximately 270 feet from Fisher Street and is presently owned by Andrew Rodenhiser of Medway, MA. The site includes one existing single-family house, Mr. Rodenhiser's residence, which will be retained on the newly created lot #4. The site is presently accessed from Fisher Street via an existing permanent private way that is owned jointly by Andrew Rodenhiser and abutting property owner Robert Reed (106 Fisher Street). They presently share the use of and maintenance responsibility for that access road.

The Bay Oaks proposal includes construction of an approximately 170' linear foot long, 18' wide paved extension of that existing private roadway to provide access and legal frontage for 3 additional house lots. The existing and extended private way will be known as Dover Lane. The proposal includes the installation of private wells and private septic systems and stormwater management facilities to comply with Massachusetts DEP stormwater management requirements. A portion of the site is in a Wetlands Resource Area.

***II. PROCEDURAL SUMMARY:*** With respect to the *Bay Oaks Definitive Subdivision Plan*, the Planning and Economic Development Board hereby certifies as follows:



1. On June 5, 2012, it received an application for approval of the *Bay Oaks Definitive Subdivision Plan*, dated May 18, 2012 prepared by GLM Engineering of Holliston, MA. This definitive subdivision plan was preceded by submission of a preliminary subdivision plan which the Planning and Economic Development Board reviewed in July, August and September 2011. The Board issued a Preliminary Subdivision Plan Certificate of Action on September 27, 2011.
2. On June 15, 2012, it circulated the *Bay Oaks Definitive Subdivision Plan* to various Town boards and departments, including the Board of Health, for review and comment. The Board of Health provided written comments dated July 2, 2012.
3. On July 10, 2012, it commenced a public hearing on the plan. The public hearing was duly noticed in the *Milford Daily News* on June 25 and July 3, 2012. Notice was posted with the Medway Town Clerk on June 14, 2012 and was sent by certified sent mail on June 18, 2012 to abutters in Medway and Holliston within 300 feet of the subject property and to parties of interest. The public hearing was continued to July 24, August 14, and August 28, 2012 when it was closed.
4. All members voting on this Certificate of Action were present at all sessions of the public hearing or have provided a certification pursuant to General Laws c. 39 section 23D.

**III. PUBLIC HEARING SUMMARY:** The public hearing and the Board’s review of the *Bay Oaks Definitive Subdivision Plan* were conducted over the course of four Planning and Economic Development Board meetings during which substantive information was presented and evaluated. The plan was reviewed for compliance with the *Subdivision Rules and Regulations* dated April 26, 2005 which were in effect at the time the applicant submitted a preliminary subdivision plan to the Board in July 2011.

Specified below is a list of application materials, public comments, consultant and town departmental/ board review documents, and supplemental information provided by the Applicant or placed on the record by the Planning and Economic Development Board. All information is on file in the Medway Planning and Economic Development office and is available for public review (except for confidential communications from Town Counsel).

***Definitive Subdivision Plan Application Materials***

- Form C – Definitive Subdivision Plan application - Dated \_\_\_\_\_.
- Form D – Designer’s Certificate – Dated \_\_\_\_\_.
- Form F – Development Impact Report – Dated \_\_\_\_\_.

***Bay Oaks Definitive Subdivision Plan*** – GLM Engineering Consultants, Inc.  
May 18, 2012  
Revised -July 30, 2012  
Revised -August 15, 2012

***Stormwater Report Bay Oaks Definitive Subdivision Plan*** – GLM Engineering Consultants, Inc.  
May 18, 2012  
Revised - July 30, 2012

***Storm Water Pollution Prevention Plan/Bay Oaks Subdivision*** – GLM Engineering Consultants.  
July 29, 2012

Request for Waivers from Subdivision Rules and Regulations – GLM Engineering Consultants,  
August 15, 2012

***Town Engineering Consultant Reviews*** – David Pellegrini, P.E. Tetra Tech  
July 2, 2012 letter  
August 8, 2012 letter  
August 20, 2012

***Town Planning Consultant Review Letters*** – Gino Carlucci, AICP, PGC Associates  
July 5, 2012 letter  
July 13, 2012 letter  
August 9, 2012 letter  
August 23, 2012

***Supplemental Information Provided By Applicant's Consultants***

AASHTO Road Standards – *Lane Width: Flexibility in the AASHTO Guidelines* from a **Guide for Achieving Flexibility in Highway Design.**

Letter from Rob Truax, GLM Engineering, dated 7/30/2012 re: proposed mitigation measures

Letter from Rob Truax, GLM Engineering, dated 7/30/12 re: response to review comments from Tetra Tech (7/2/12), PGC associates (7/5/12), Medway Police (7/23/12) and additional comments from PEDB members and abutters as expressed at the public hearings.

Letter from Rob Truax, GLM Engineering, dated 8/15/2012 re: revised stormwater drainage calculations

***Supplemental Information Entered into the Record by the Medway Planning and Economic Development Board***

Bay Oaks Preliminary Subdivision Plan *Certificate of Action* dated September 28, 2011 and filed with the Town Clerk on the same date.

Drawing dated 7/18/12 from Jimmie Smith, Medway Department of Public Services; drawing depicts location of stormwater facilities in Fisher ST and Stone End RD in the vicinity of the subject parcel

Land Transaction Chronology of 104 Fisher Street dated July 13, 2012 with associated Attachments A – M (deeds, plans, etc.) NOTE – Chronology prepared by Susan Affleck-Childs, Medway Planning and Economic Development Coordinator.

Letter dated July 19, 2012 from Attorney Jay Aframe of Worcester, MA (*for the applicant, Andy Rodenhiser*)

Photograph received September 23, 2011 showing Dover Lane with vehicles passing

***Citizen/Resident Letters***

Email communication dated August 9, 2012 from Ed Duggan, 59 Fisher St.

***Citizen/Resident Testimony***

Robert Reed, 106 Fisher Street – 7/10/12, 8/14/12  
John Giovanella, 44B Fisher Street – 7/10/12, 7/24/12, 8/14/12  
Katherine Presswood, 92 Fisher Street – 7/10/12  
Krista Digregorio, 108 Fisher Street – 7/10/12  
Trisha Letson, 97 Fisher Street – 7/24/12, 8/14/12  
Chris Giovanella, 48 Fisher Street – 7/24/12

***Professional Testimony***

Gino Carlucci, AICP, PGC Associates, Inc. – Franklin, MA – 7/10/12, 7/24/12, 8/14/12 & 8/28/12

David Pellegri, P.E., Tetra Tech – Framingham, MA - 7/10/12, 7/24/12, 8/14/12, 8/28/12

Rob Truax, GLM Engineering Consultants, Inc. – Holliston, MA - 7/10/12, 7/24/12, 8/14/12 & 8/28/12

Attorney Deborah Batog of Gilmore, Rees & Carlson, P.C. - Franklin, MA (*for the Giovanella family*) – 7/10/12, 7/24/12, 8/28/12

Letter dated July 19, 2012 from Attorney Jay Aframe of Worcester, MA (*for the applicant, Andy Rodenhiser*)

Attorney Scott Sinrich of Worcester, MA (*for the applicant, Andy Rodenhiser*) – 8/28/2012

Town Counsel Barbara Saint Andre, Petrini and Associates of Framingham, MA (*for the Town of Medway*) – 8/14/12

***Medway Departmental/Board Review Comments***

Memorandum dated July 2, 2012 from Stephanie Bacon, Health Agent, on behalf of the Board of Health

Memorandum dated July 23, 2012 from Medway Police Department Safety Officer Sergeant Jeffrey Watson

Memorandum and map dated July 23, 2012 from Will Naser, Medway Principal Assessor

Letter dated July 26, 2012 from Jeff Lynch, Medway Fire Chief  
Email communication dated August 20, 2012 from Conservation Commission chairman David Travalini.

The Board is also in receipt of several confidential email communications from Town Counsel Barbara Saint Andre of Petrini & Associates re: this proposed subdivision.

- August 18, 2011 re: former subdivision covenant and release
- July 13 & 15, 2012 re: public disclosure statements
- July 30, 2012 re: 7/19/2012 letter from Attorney Jay Aframe (for the applicant)

**IV. ACTION ON REQUEST FOR WAIVERS OF SUBDIVISION RULES & REGULATIONS** – The Applicant has requested waivers from the following sections of the *Subdivision Rules and Regulations*, dated April 26, 2005.

**SECTION 7.7.2 STORMWATER MANAGEMENT – (m)** *Side slopes for stormwater detention basins/facilities shall be no steeper than three (3) horizontal to one (1) vertical.*

**FINDINGS** - The applicant has proposed a waiver to allow for a two (2) to one (1) slope on the side slopes of the detention basin. The basin is relatively small and shallow. Requiring a three (3) to one (1) slope will necessitate more clearing of natural vegetation and disturbance to the topography. Due to the small size of the basin, the PEDB finds that a two (2) to one (1) slope is acceptable.

**SECTION 7.7.2 STORMWATER MANAGEMENT – (p)** *Detention and retention basins and underground infiltration systems and any related drainage structures shall be located on separate parcels and shall not be included on individual house/building lots.*

**FINDINGS** - The applicant has proposed installing the stormwater management facilities within the roadway layout. The roadway layout is a separate parcel from the house/building lots and the PEDB has allowed detention basins to be located within the roadway layout of other private way subdivisions. Therefore, the location of the stormwater facilities within the roadway layout is acceptable.

**SECTION 7.9.1. STREETS AND ROADWAYS – Location**

*e) The Board may authorize permanent private ways for subdivisions of up to three (3) lots/dwelling units.*

*f) Neighborhood Street construction standards are to be used for subdivisions of up to five (5) lots/dwelling units.*

**FINDINGS** - The applicant proposes to divide the subject property into four house lots. A street serving a 4 lot subdivision would be categorized as a Neighborhood Street and would be expected to become a Town accepted street. However, the existing access to the subject parcel is provided by an existing paved, permanent private roadway; the size of the existing right of way for that roadway is 60' wide by about 410' long from Fisher Street. Access and frontage for the new house lots will be created by extending that private way northeasterly into the property for an additional 230' which results in a combined right of way length from Fisher Street of 640 linear feet. By necessity, the extension must also be a permanent private way. Because of this

unusual circumstance, the Board finds it acceptable to designate the roadway extension as a Permanent Private Way instead of as a Neighborhood Street.

**SECTION 7.9.6 b) DEAD-END STREETS (Length)** – *The maximum length of a dead end street shall be 600' as measured along the centerline of such street from the centerline of the intersecting through street into the dead end road. In the case of a group of connected streets . . . no point along the centerline of any dead end street shall exceed 600' measured from the centerline of the intersecting through street.*

**FINDINGS** - The plans show that the full length of the layout of the Dover Lane right-of-way from Fisher Street to its “new” end will be approximately 640 linear feet. While the end of the right-of-way is drawn as a bulb to create sufficient frontage, the paved length of the roadway to the point where the roadway splits into what are essentially driveways to Lots 3 and 4 is just over 600 feet, and the beginning of each driveway within the right-of-way form the hammerhead. Therefore, this minor deviation from the 600-foot standard is acceptable.

**SECTION 7.9.6 d) & e) DEAD-END STREETS (Turnaround Design)** – *To accommodate emergency vehicles, dead-end streets shall be provided at the closed end with an adequate turnaround acceptable to the Fire Chief. Turnarounds shall be designed in one of the two following ways: 1) A cul-de-sac turnaround with a perimeter diameter of one hundred feet shall include a twenty-four foot diameter center landscaped island (for use on a Neighborhood Street); 2) A hammerhead or T-shaped turnaround (for use on a Permanent Private way).*

**FINDINGS** – The applicant has proposed the use of a hammerhead turnaround. As noted in the regulation, hammerhead turnarounds are allowed on permanent private ways. Since this roadway is by necessity a permanent private way, the hammerhead design is acceptable. More importantly, the Fire Chief has reviewed the plans and does not object to the hammerhead design as long as the turning radius is sufficient for fire apparatus. The use of a hammerhead turnaround instead of a center island cul-de-sac will also reduce the amount of impervious area and site clearing.

**SECTION 7.9.7 g) ROADWAY CONSTRUCTION Width** - . . . . *The minimum width of the roadway pavement shall be Twenty Feet (20') for a Neighborhood Street.*

**FINDINGS** – The applicant proposes that the road extension for Dover Lane be paved at an 18' width which is 2' less than the Neighborhood Street standards. However, the 18' paved width is consistent with the Town's standards for a Permanent Private Way. The reduced pavement width will result in more extensive preservation of the highly wooded setting and minimize site impacts. The 18' paved width is also consistent with the width of the existing Dover Lane permanent private way which accesses the subject parcel. It would serve little purpose to have a short extension be wider than the majority of the roadway.

**SECTION 7.10.2 CURBS AND BERMS** – *Sloped granite edging shall be provided along each side of the full length of a Neighborhood Street.*

**FINDINGS** – The applicant proposes to eliminate curbing/edging along the edge of the proposed roadway extension to allow for the use of a country drainage swale for low impact stormwater management purposes. Eliminating the curbing and super-elevating the roadway is necessary to accommodate the low-impact drainage system. This will result in reduced site impacts. The Board and its Consulting Engineer have reviewed the proposal and find it to be acceptable.

**SECTION 7.13.2 SIDEWALKS** – *Sidewalks shall extend the full length of the street and shall have a paved width of six feet on one side – hot mix asphalt with a minimum four-foot grass strip.*

**FINDINGS** - The applicant proposes to not install sidewalks on the planned roadway extension. Not constructing sidewalks will reduce site impacts and will allow for stormwater runoff from the roadway to disperse into the swale along the roadway. Furthermore, the existing roadway which accesses the subject parcel does not include sidewalks. Consideration was given to adding sidewalks to the existing roadway. However, the existing topography and roadway with its retaining walls on both sides would make adding such a sidewalk not feasible. Therefore, providing sidewalks on the extension would serve little purpose. In lieu of constructing sidewalks, a contribution in the amount of \$\_\_\_\_\_ will be made to the Town's Sidewalk Fund for the purpose of building sidewalks elsewhere in the community.

## **BOARD DISCUSSION**

Member Rogers does not think a contribution should be made. This should be eliminated.

Consultant Carlucci noted that this has been determined to be a neighborhood street. That is why a contribution is justified only for the new section.

The Board wanted to know what the length of the new section of road is.

Susy communicated that the length to the end is 230 ft. (ROW length)

Member Gay responded that consistently the length has been 595 ft. He is questioning where the 640' came from.

Susy noted that this is the station number. It has been consistently in the numbers presented.

The Board would like clarity on the length.

Consultant Carlucci indicated that the 595' goes to the center and not the edge of the ROW.

The Board would like the wording to be consistent with the regulations.

Applicant Rodenhiser wanted to know why we would use the Town's price if it is not actually going to be developed.

The Board discussed that options be placed in the decision regarding sidewalks. There may be another area in town that needs 200ft of sidewalk replaced.

Consultant Pellegri wanted to know how the applicant does this.

Susy responded that they would work with the DPS.

Member Tucker responded that we could allow a developer to use his own forces (to install the sidewalk). He wants to make sure we are consistent.

**SECTION 7.17.1 FIRE PREVENTION AND PROTECTION MEASURES** – *A fire alarm system shall be installed in accordance with the specifications of and located as directed by the Medway Fire Department or a sum of money paid to the Town equal to the cost of installing a fire alarm system within the subdivision, for use by the Fire Department for capital purchases.*

**FINDINGS** – The applicant proposes to not install a fire alarm system in the private way. The Fire Department no longer requires the installation of fire alarm boxes because it is converting to a higher technology alarm system. Therefore, the Board finds this waiver to be acceptable subject to a condition that the applicant shall make a \$1,000 payment in-lieu of installing the fire alarm system as has become the standard practice. Such payment shall be directed specifically into a Fire Department fund to be used exclusively toward the cost of a new fire alarm system for the community.

## **BOARD DISCUSSION**

Mr. Rodenhiser wanted to know if he can put in a fire alarm system that notifies the Fire Department in lieu of paying into the fund.

Susy will check with the Fire Chief if this option or other options are available.

**SECTION 7.19.2 – TREES AND SLOPE STABILIZATION** - *Top enhance the aesthetic quality of the streetscape, deciduous street trees of nursery stock conforming to the standards of the American Association of Nurserymen, shall be planted on each side of each street in a subdivision. . . . At least three (3) trees are to be placed on each lot at approximately forty foot (40') intervals . . . .*

**FINDINGS** – The applicant does not propose to plant additional street trees on the house lots. The site is already heavily wooded and the applicant has provided a landscaping plan for the area where the roadway splits off to become driveways for Lots #3 and #4. The Board finds that this is an acceptable substitute.

### **Mitigation Plan**

1. The new road will be private in perpetuity, owned and maintained by a homeowner's

association, thus relieving the Town of this on-going responsibility and expense.

2. Maintenance and upkeep of the stormwater management facilities will be the responsibility of a homeowner's association, thus relieving the Town of this on-going responsibility and expense.

3. The reduced width of road paving will result in reduced disturbance to the topography and less impact on the site's wetlands, woodlands and other natural resources.

4. *Payment in lieu of sidewalk construction . . . . to be determined*

**Action on Waiver Findings** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_, 2012, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted Waiver Findings. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

**Action on Mitigation Plan** - At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_, 2012, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ approve the above noted Mitigation Plan. The motion was \_\_\_\_\_ by a by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

**Action on Waivers** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_ 2012, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the above noted waivers from the *Subdivision Rules and Regulations*. The motion was \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( ).

**V. PROJECT EVALUATION CRITERIA – Before taking action on a Definitive Subdivision Plan, the Board shall evaluate the proposed subdivision according to the criteria as specified in Section 5.16 of the Subdivision Rules and Regulations.**

At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on \_\_\_\_\_ a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the Project Evaluation Findings noted below. The motion \_\_\_\_\_ by a vote of \_\_\_ in favor ( ) and \_\_\_ opposed ( )

5.16.1 Completeness and technical accuracy of all submissions.

*FINDINGS – The Planning and Economic Development Board finds that the submissions were complete and technically accurate.*



5.16.2 Determination that the street pattern is safe and convenient and that proper provision is made for street extension. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the inadequacy of the proposed ways within the subdivision.

*FINDINGS – The Board finds that, as conditioned, the proposed street pattern within the new subdivision is safe and convenient. The proposed new roadway within the subdivision is comparable to other recently-approved permanent private subdivision roadways and is found to be safe and convenient. During the hearing, concern was expressed about the condition of the existing access roadway (Dover Lane), more specifically its 18-foot width with retaining walls on both sides. However, documentation was presented that two SUV's could pass one another safely. Moreover, conditions were reviewed by both the Fire Chief and Police Safety Officer and the Town's consulting engineer. Signage was recommended to warn drivers to watch for pedestrians and has been incorporated into the plan. Also, it was represented by the applicant that a maintenance agreement is in place to address snow and ice conditions on the existing roadway (as well as the new roadway).*

5.16.3 Determination that development at this location does not entail unwarranted hazard to the safety, health and convenience of future residents of the development or of others because of possible natural disaster, traffic hazard or other environmental degradation.

*FINDINGS – The Board finds that the location of the development does not entail unwarranted hazard. A drainage plan has been designed to handle anticipated stormwater runoff and the sight distances from the proposed road are adequate. The new houses will use private wells and septic systems approved by the Board of Health, and erosion controls will be in place during construction. The Town's Safety Officer has reviewed the plans and has not found any unwarranted safety deficiencies.*

5.16.4 Determination, based on the environmental impact analysis, where submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

*FINDINGS – The site of the subdivision is not within a Priority Habitat area and the wetlands of the site will be protected. Stormwater management has been adequately addressed. There will be an increase of only three single-family houses to be constructed. The Board finds that the subdivision will not cause substantial and irreversible damage to the environment.*

5.16.5 Determination that the roads and ways leading to and from the subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel for the projected volume of traffic. The Board may disapprove a plan where it determines that dangerous traffic or unsafe conditions may result from the

inadequacy of the proposed access or of any ways adjacent to or providing access to the subdivision.

*FINDINGS – The Board finds that the proposed roadway as well as the existing roadway leading to the subdivision are adequate to provide emergency medical, fire and police protection as well as safe travel for the anticipated volume of traffic. The roadway will be built according to the Board’s construction specifications for a permanent private way. The plans have been reviewed by the Fire Chief as well as the Town’s Safety Officer. As noted above, concerns have been raised about the existing roadway leading to the subdivision, but those concerns have been addressed.*

5.16.6 Conformity with all applicable requirements of the Medway Zoning By-Law including but not limited to minimum area and frontage standards.

*FINDINGS – The Board finds that the lots created by this plan conform to all applicable requirements of the Medway Zoning By-Law, including minimum area and frontage requirements.*

5.16.7 Consistency with the purposes of the Subdivision Control Law.

*FINDINGS – The Board finds that the proposed subdivision is consistent with the purposes of the Subdivision Control Law because the infrastructure proposed is adequate for the new development and the impacts of the subdivision have been mitigated to a reasonable extent. Reasonable waivers have been granted herein with good cause.*

## **VI. OTHER FINDINGS – THIS NEEDS WORK!!**

- Existing rights of way shown on the plan are not diminished or damaged.
- The existing roadway which provides access to the subject parcel is a separate private roadway parcel that is not part of the plan before the PEDB.
- Acknowledge concern about the development limitation implied by the prior subdivision covenant in 1986 and reference the subsequent full Release of Covenant by the planning board in 1990.

**VII. DECISION** – At a duly called and properly posted meeting of the Medway Planning and Economic Development Board held on November 29, 2011, a motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ to \_\_\_\_\_ the **Bay Oaks Definitive Subdivision Plan**, prepared by GLM Engineering, dated May 18, 2012, last revised August 15, 2012 subject to the Specific and General Conditions as specified herein and with Waivers from the following sections of the Subdivision Rules and Regulations dated April 25, 2005.

SECTION 7.7.2 m) and p) Stormwater Management

SECTION 7.9.1 e) and f) Streets and Roads  
SECTION 7.9.6 b), d) and e) Dead End Streets  
SECTION 7.9.7 (g) Roadway Construction  
SECTION 7.10.2 Curbs and Berms  
SECTION 7.13.2 Sidewalks  
SECTION 7.17.1 Fire Prevention and Protection Measures  
SECTION 7.19.2 Trees and Slope Stabilization

The motion was \_\_\_\_\_ by a vote of \_\_\_\_ in favor ( ) and  
\_\_\_\_ opposed ( ).

**VIII. CONDITIONS** – The following specific and general conditions shall apply to the Applicant, its executors, administrators, devisees, heirs, successors and assigns:

**A. Specific Conditions**

1. It is expressly understood that this subdivision is authorized for no more than 4 residential house lots. As a permanent condition of this plan, no further subdivision of the property beyond these 4 lots will be allowed.
2. The Applicant shall construct the roadway and all related infrastructure including the stormwater management system, and install all utilities as shown on the definitive subdivision plan, to the satisfaction of the Planning and Economic Development Board, within three (3) years of the date of endorsement of the plan.
3. *Ownership of Dover Lane* - It is understood that the extension of Dover Lane depicted on this subdivision plan shall remain privately owned in perpetuity. There is no intention or expectation that the Town of Medway will ever accept the roadway as constructed pursuant to this plan. There shall be established the Bay Oaks Homeowners Association, to be comprised of the owners of lots 1, 2, 3 and 4 as shown on the Definitive Subdivision Plan. The Association shall ultimately own and maintain the parcel with the private roadway including snowplowing and sanding, and maintain and operate the stormwater detention/infiltration system and related infrastructure located within the roadway right of way.
4. The Applicant shall specifically reserve to itself ownership of the fee in the extension of Dover Lane and easements shown on the subdivision plan in any deeds or other conveyances or transfers of any of the lots. The Applicant shall convey the fee in the roadways and drainage easements to the Bay Oaks Homeowners Association before the Planning and Economic Development Board approves the final bond release or, if there is no bond, then approval of the as-built plan.
5. Prior to endorsement, the plans dated August 15, 2012 shall be further revised to include the following references:

- a note shall be added to all plan sheets to indicate that present and future owners are subject to a *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Bay Oaks Subdivision*.
  - Fisher Street pavement width shall be shown
  - A note shall be added to the plan that brush will be cleared on the east side of Fisher Street on either side of the bottom of Dover Lane to the satisfaction of the Police Safety Officer.
  - A note shall be added to the plan that trees remaining along the proposed roadway shall be clear of any branches from the approved grade level to a point seven feet above finish grade.
  - A note shall be added to the plan that the house address numbers shall be marked on a post at the end of each house lot driveway to facilitate easy identification from the private roadway for emergency and safety vehicles.
6. Prior to plan endorsement, the applicant shall review the turning radii at the driveways with the Fire Chief and provide a written determination from the Fire Chief that the planned radii are sufficient to accommodate fire apparatus or that the plan has been modified to make it acceptable.

## **BOARD DISCUSSION**

The Board would like the applicant to get something in writing from the Fire Chief that the planned radii are sufficient and will work.

Consultant Pellegri noted that there is no standard radius and it depends on the width of the road.

Mr. Rodenhiser responded that isn't there a prescriptive standard.

Consultant Pellegri will contact the Fire Chief.

Susy responded that we need to be more specific about this and we can add another bullet.

7. It is understood that the existing addresses for 104 and 106 Fisher Street will be changed to Dover Lane addresses at the request of Fire, Safety and Assessing officials.
8. Something on maintenance of Dover Lane, particularly related to snow plowing.

9. Prior to endorsement, the plan shall be revised to incorporate all conditions as specified in this Certificate of Action. The Applicant shall provide such revised plan to the Planning and Economic Development Board and the Town's Consulting Engineer for review and approval. All conditions of this Certificate of Action must be addressed to the satisfaction of the Town's Consulting Engineer and the Planning and Economic Development Board before the Board will endorse the definitive subdivision plan.
10. *The Bay Oaks Homeowners Association* - Prior to plan endorsement, the Applicant shall provide a proposed Articles of Association or Incorporation establishing The Bay Oaks Homeowners' Association to be reviewed and approved by the Planning and Economic Development Board and Town Counsel. At a minimum, the document shall include provisions for membership by the owners of Lots 1, 2, 3 and 4 (and may include provisions for membership by the owner of the present 106 Fisher Street), management responsibilities, procedures for voting and fee assessment, and for the ownership and financial responsibility for the on-going maintenance, upkeep and repair of the Dover Lane and the stormwater management system.
11. *Declaration of Protective Covenants & Restrictions and Private Roadway Maintenance Agreement Governing the Bay Oaks subdivision* – The future owners of lots 1, 2, 3 and 4 are subject to the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Bay Oaks Subdivision* to be executed and recorded with the definitive subdivision plan. Prior to endorsement, the Applicant shall provide a proposed *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Bay Oaks Subdivision* to be reviewed and approved by Town Counsel and the Planning and Economic Development Board. At a minimum, the *Declaration of Protective Covenants & Restrictions and Private Roadway Agreement Governing the Bay Oaks Subdivision* shall include language regarding the installation of light posts for each lot, the property owners' responsibility through a homeowners' association for the upkeep, repair, and on-going maintenance of the roadway including snowplowing and sanding, and the operation and maintenance of the stormwater management system.

## **BOARD DISCUSSION**

The Board discussed that the maintenance plan calls for street sweeping and basin cleanup as necessary but does not address snow and sand.

Member Tucker responds that why not put removal of branches into the plan.

Susy responds that this relates to the street sweeping.

It was suggested that the plan show snow storage areas and put language in the decision to address this.

Mr. Rodenhiser noted that we store the snow at the circle and at end of left and right sides.

Susy would like to see snow storage added before the definitive plan is endorsed.

Mr. Rodenhiser has no problem where snow will be stored.

Consultant Pellegri wanted to know if there is there something in the regulations.

Mr. Rodenhiser notes that he will add a note about the existing and ongoing storage and plan.

Susy will add a bullet to show snow storage.

Member Rogers notes that we are overdoing it.

Susy wanted to know what is the maintenance plan for the existing part of Dover Lane.

Member Tucker noted that this is not under consideration.

Susy asks what level of maintenance is reasonable for the bottom.

Member Tucker responds that why make it differential there, we have not done this with any other projects.

12. *Lot Deeds* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with copies of the proposed deed to convey or transfer each subdivision lot for review, comment, amendment and approval by Town Counsel. Each deed shall state that the Applicant shall reserve to itself ownership of the fee in the roadway and easements shown on the subdivision plan. Each deed shall specifically refer to any and all easements shown on the plan for that particular lot. The deed text shall include descriptive language specifying all easements, boundary delineations, specific usages and purpose. Each deed shall clearly state that Dover Lane is a private way, not ever to be owned by the Town of Medway. The deed shall refer to and be accompanied by a Lot Sketch Plan to be recorded with each deed. The Lot Sketch Plan shall also depict all easements. The deed shall refer to the *Declaration of Protective Covenants & Restrictions and the Private Roadway Maintenance Agreement Governing the Bay Oaks Subdivision*.
13. *Road Deed & Easements* – Prior to endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of the proposed deed to convey Dover Lane and all drainage easements

shown on the plan to the Bay Oaks Homeowner's Association, for review, comment, amendment and approval by Town Counsel.

## **BOARD DISCUSSION**

The Board wanted further clarity about the Homeowners Association.

Mr. Rodenhiser explained that currently, the road maintenance is split 50% with Mr. Reed. After the new homes are added, it will be divided further by those residents.

Member Spiller-Walsh wanted to know if there would be any advantage for Mr. Reed not to join.

Mr. Rodenhiser responded that his percentage would be less, but this is up to him.

Member Tucker asks if there should there be more language included to address this.

Susy communicated that she will speak with Town Counsel about how to allow for this and how to divide the cost accordingly. She noted her opinion is that the whole road (existing and extension) should be owned by the association.

Member Spiller-Walsh wanted to know if the Board can be made aware of what Mr. Reed decided.

Mr. Rodenhiser responded NO since the public hearing is closed.

14. *Document/Plan Recording* – Within thirty (30) days of recording the endorsed definitive subdivision plan, the *Subdivision Covenant, the Declaration of Protective Covenants and Restrictions and Private Roadway agreement Governing the Bay Oaks subdivision*, any articles of association establishing the Bay Oaks Homeowner's Association, with the Norfolk County Registry of Deeds, the Applicant or his assign shall provide the Planning and Economic Development Board with a receipt from the Norfolk County Registry of Deeds indicating that all documents have been duly recorded, or supply another alternative verification that such recording has occurred.
15. *Maintenance Responsibility During Construction* – The Applicant shall provide for snow plowing, sanding and full maintenance of the existing Dover Lane and its extension and all related stormwater management infrastructure throughout the entire construction process until the roadway determined to be complete by the Board and is subsequently conveyed to the Bay Oaks Homeowners Association.

## **B. General Conditions**

1. *Expiration of Appeal Period* – Prior to endorsement, the Planning and Economic Development Board must receive the statutory notification of the expiration of the twenty (20) day appeal period from the Town Clerk's office.
2. *Payment of Balance of Fees/Taxes* – Prior to plan endorsement, the Applicant shall pay the balance of any outstanding plan review services by any outside consultants retained by the Planning and Economic Development Board and any other outstanding expenses, obligations, fees or taxes due the Town of Medway. Proof is required from the Medway Town Treasurer/ Collector that all real estate taxes are current for all property owned in Medway by the applicant.
3. *Establishment of Bond Account* – Prior to plan endorsement, the Applicant shall establish a statement savings account (*with the Town of Medway*) at an area financial institution with which the Applicant will place a cash bond. The applicant shall provide the Medway Treasurer with a signed withdrawal slip from said account which shall be retained by the Medway Treasurer.
4. *Subdivision Covenant* – Prior to endorsement, the Applicant shall sign a *Subdivision Covenant*, on a form acceptable to the Planning and Economic Development Board, to be reviewed and approved by Town Counsel, to secure construction of the ways and all related infrastructure and installation of utilities and services as specified in the approved subdivision plan. Reference to the *Subdivision Covenant* shall be noted on the cover sheet of the Definitive Subdivision Plan. The *Covenant* shall specify that the roadway and all relevant infrastructure including the stormwater management system shall be constructed and all utilities and services shall be installed to the satisfaction of the Planning and Economic Development Board within three (3) years of the date of plan endorsement. The *Subdivision Covenant* shall apply to lots 2, 3 and 4 as shown on the plan.
5. *Subdivision Bond* – At such time as the Applicant wishes to secure a building permit for any lot within the subdivision, the security provided by the *Subdivision Covenant* shall be replaced by a Subdivision Bond. Prior to the Planning and Economic Development Board's approval of the *Release of Covenant* for any house lot, the Applicant shall provide suitable performance security to the Town of Medway in an amount equal to 100% of the amount that would be required for the Town of Medway to complete construction improvements and infrastructure maintenance if the Applicant failed to do so. The bond amount shall be approved by the



Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. The company providing the surety shall be acceptable to the Medway Treasurer/Collector.

6. *Order of Conditions* – Prior to plan endorsement, the Applicant shall provide the Planning and Economic Development Board with a copy of any and all “*Order of Conditions*” as issued by the appropriate agency, and recorded by the Applicant, pursuant to the Massachusetts Wetlands Protection Act. Any changes to the Definitive Plan that may be required under the “*Order of Conditions*” shall be presented to the Planning and Economic Development Board by the Applicant, for review and approval as a modification to the Definitive Plan. The Planning and Economic Development Board reserves the right to negotiate with the issuing authority any mutually acceptable modifications to the “*Order of Conditions*” that may be deemed appropriate by the Planning and Economic Development Board and the Town's Consulting Engineer. After the public hearing and acceptance of the modifications to the plan, the Planning and Economic Development Board shall take action on the modified plan, reporting said action to the Town Clerk. The statutory notification of the expiration of the twenty (20) day appeal period must be received from the Town Clerk's office before the Planning and Economic Development Board endorses the plan modification.

Additionally, upon issuance of any “*Order of Conditions*” requiring further individual filings under the Massachusetts Wetlands Protection Act, the Applicant shall prepare an amended plan clearly identifying the lots requiring further action under the Wetlands Protection Act. The Applicant shall provide this plan for endorsement by the Planning and Economic Development Board and shall provide a receipt from the Registry of Deeds indicating that the endorsed amended plan has been duly recorded.

7. *Construction Observation* – Inspection of roadway and infrastructure construction by the Town's Consulting Engineer is required. Prior to plan endorsement, the Applicant shall pay a construction observation fee to the Town of Medway for such inspections. The amount shall be determined by the Planning and Economic Development Board based on an estimate provided by the Town's Consulting Engineer. A construction observation account shall be established with the Medway Planning and Economic Development Board prior to plan endorsement. The Applicant shall provide supplemental payments to the Town of Medway for reasonable construction inspection services upon invoice from the Planning and Economic Development Board, until the road construction and stormwater drainage system are completed and the as-built plan has been reviewed and determined to be satisfactory for filing with the Town.

8. Within thirty (30) days of plan endorsement, the Applicant shall provide the Town with a set of the approved plan in 11” x 17” paper format. The Applicant shall also provide the approved plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Applicant shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor’s maps relative to this subdivision.
9. *Pre-Construction Meeting* – At least seven days prior to the start of any construction on the site, a pre-construction meeting shall take place with the Town’s Consulting Engineer, the Planning and Economic Development Coordinator, the Medway Department of Public Services, the Medway Conservation Agent, the developer and his contractors. The construction schedule shall be reviewed and the procedures for inspections discussed. A copy of the final Stormwater Pollution Prevention Plan (SWPP) as filed with the Mass Department of Environmental Protection (DEP) shall be provided to the Town.
10. *Proof of Taxes Paid* – Prior to the Planning and Economic Development Board’s approval of the *Release of Covenant* for the first building lot, proof is required from the Medway Town Treasurer/ Collector that all real estate taxes are current for the property included in this subdivision.
11. *As-Built Plans* - The Applicant agrees to prepare and provide as-built construction plans prepared in accordance with the approved subdivision plan and with the *Subdivision Rules and Regulations* in effect at the time the as-built plans are submitted, to the satisfaction of the Planning and Economic Development Board. The Applicant shall provide the final as-built plan in CAD format compatible with the Medway GIS and acceptable to the Medway Board of Assessors (ArcInfo shape file - .shp). The Applicant shall pay any reasonable associated costs, as may be determined by the Board of Selectmen, to update the Medway GIS/Assessor’s maps relative to this subdivision.
12. *Compliance* - All construction shall be as specified in the approved definitive subdivision plan and in full compliance with the *Subdivision Rules and Regulations* and all applicable local, state and federal laws, including but not limited to the Americans with Disabilities Act, the NPDES permit requirements, the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy requirements, MEPA requirements, the Massachusetts Wetland Protection Act (Chapter 131, Section 40, M.G.L.) and the regulations of the Massachusetts Architectural Access Board for handicap accessibility.

## **BOARD DISCUSSION**

The Board would like to schedule another meeting on Tuesday, September 18, 2012 at 5:30 pm in Sanford Hall to finish discussion about the Certificate of Action for Bay Oaks.

Mr. Rodenhiser returned to the Board table as Chairman at 10:07 pm.

### **Remote Participation Policy:**

The Board is in receipt of the Town's remote participation policy for meetings as adopted by the Board of Selectmen. (See Attached)

**On a motion made by Karyl Spiller-Walsh and seconded by Tom Gay, the Board voted unanimously to accept the remote participation policy.**

Susy reported that Member Gay will be taking part via remote participation at the next regularly scheduled meeting on September 25, 2012. He will fill out and submit the required paperwork.

The Chairman wanted to know if this remote participation has this been used and tested.

Member Tucker asked if this will be tested prior to our meeting.

Susy responded that she will try to get someone here to run the phone.

Member Gay provided his phone number to use for the call.

The members wanted Susy to send an OUTLOOK meeting request.

### **Meeting Minutes:**

#### **August 28, 2012:**

These would be tabled until next mtg.

### **Task Force Reports:**

There were no Task Force reports:

### **Future Meetings:**

**The next regular Planning and Economic Development meeting will be September 25, 2012 at 7:00 pm**

### **Adjourn:**

**On a motion made by Karyl Spiller-Walsh and seconded by Chan Rogers, the Board voted unanimously to adjourn the meeting at 10:33 pm.**

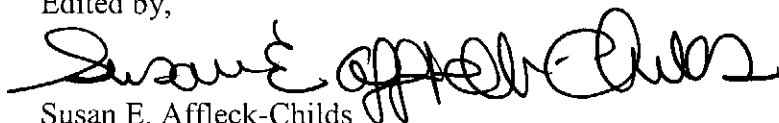
*Minutes of September 11, 2012 Meeting  
Medway Planning & Economic Development Board  
Approved – September 25, 2012*

Respectfully Submitted,



Amy Sutherland  
Meeting Recording Secretary

Edited by,



Susan E. Affleck-Childs  
Planning and Economic Development Coordinator

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**MEMO TO:** Medway Planning and Economic Development Board

**FROM:** Gino D. Carlucci, Jr.

**DATE:** September 7, 2012

**RE:** Comments on Sign Bylaws

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**Introduction**

The primary purpose of this memo is to explore the positive and negative aspects of removing the sign bylaw from the Zoning Bylaw and adding it to the General Bylaws. The issue to be considered is a desire to bring non-conforming signs into compliance with the requirements. The following sections include a rationale for a possible switch, how some other Towns and a model sign bylaw prepared by a sign industry association have addressed the issues, and some recommendations for additional research

**Principle Rationale**

As stated above, the principal motivation for considering the move is to establish a means to eliminate non-conforming signs over time. Zoning bylaws have a provision for grandfathering existing uses while general bylaws do not. A secondary impact would be that changes in the bylaw would be a bit easier to enact since amendments to general bylaws require a simple majority while zoning bylaw amendments require a 2/3 majority.

**Other Towns and Model Bylaw**

In response to a query on the MassPlanners listserve, Susy received several responses from other Towns whose sign bylaws were in the general bylaws rather than their zoning bylaws. At least one of these, Great Barrington, had made the switch relatively recently so I contacted their planner for additional information. In addition, we were informed that Brookline had adopted a general bylaw with a specific time frame for coming into compliance. Also, I reviewed a model bylaw produced by a sign industry trade association. Each of these is discussed below.

*Great Barrington*

Great Barrington made the switch about two years ago. The planner said that the switch went smoothly and there was no opposition. He said that their motivation was essentially the same as ours. Great Barrington's sign bylaw does not mandate conformance by a specific date. Rather, it requires that no changes may be made to a sign unless it is brought into compliance. Also, any change of use of the premises triggers a requirement for the sign to be brought into compliance. If

the activity, business or usage to which a sign relates is discontinued for 120 days, then the sign (whether conforming or not) can be ordered to be removed by the Building Inspector.

There has been some difficulty in the implementation due, perhaps, to a misunderstanding about what constitutes “substantial change.” In the words of the planner, “We have had new businesses come in to re-face a sign when the business changes hands, only to discover that it qualified as a “substantial change” and they were thus no longer grandfathered and had to come into compliance. Businesses have not enjoyed that, let me tell you.”

### *Brookline*

Brookline may be unique in that it addresses signs in both its Zoning Bylaw and General Bylaws. At a minimum, its approach bears further study as it may serve as a useful model for Medway.

The Zoning Bylaw includes very specific requirements for signs, which vary by Zoning District, much like the sign provisions of Medway’s Zoning Bylaw. Regarding nonconformity, it states that nonconforming accessory signs may be maintained, but in accordance with Section 5.83 of the Sign Bylaw (meaning within the General Bylaw, though it may be a typo since the section pertaining to nonconformance is 5.8.7. There is no 5.83, but 5.8.3 pertains to accessory signs in general and incorporates the provisions of the Zoning Bylaw by reference.).

Section 5.8.7 requires nonconforming accessory signs to be removed within 5 years of enactment of the bylaw (if left unchanged, if changed during that time they must be brought into compliance).

### *Truro*

In response to Susy’s query on the MassPlanners listserve, the Truro planner responded by saying that Truro is also considering doing this, but added a caution that sign bylaws cannot regulate signs by zoning districts. While this needs to be verified, it may account for Brookline’s hybrid approach that includes specific regulations in its Zoning Bylaw with more general issues in its General Bylaws.

### *Framingham*

Framingham’s sign bylaw is a general bylaw. It is not clear whether it was converted from the Zoning Bylaw. However, it does specify different standards for different zoning districts.

Also, while I do not know the date of adoption of the Framingham sign bylaw, the bylaw contains the statement: “This Bylaw is hereby declared to be remedial and protective, and is to be so construed so as to secure the beneficial interests and purposes thereof.” The term “remedial” indicates that it was intended to eliminate nonconforming signs. The bylaw establishes a firm date of September 1, 2008 by which signs were to come into compliance. This requirement is followed by a list of signs to which it applies. Most of the items on the list are signs or sign features that are prohibited by the bylaw. There are 2 items on the list that refer to “changes” in channel letter or panel wall signs and “single business freestanding signs.” Thus, I would interpret this to mean

that these types of signs are allowed to remain as long as they are not changed in any way. This might be something to consider.

### *Dedham*

The Dedham sign bylaw is also a general bylaw and it includes standards that vary by zoning district. It also includes a grandfathering provision for preexisting nonconforming signs that were legally constructed in accordance with the laws and regulations in effect at the time. This provision does not apply to signs that were not legally constructed. There is also a provision to change those legally preexisting signs without conforming totally to the new bylaw provided that the area of the changed signs can be no greater than 70% of the existing sign and its setback must be no less than the setback of the existing sign.

### *Pittsfield*

The Pittsfield sign bylaw requires nonconforming signs to come into compliance by January 1, 2009. It does allow such signs to continue with a permit from the ZBA. The bylaw also does vary the requirements by Zoning District.

### *Dennis*

The Dennis sign bylaw allows preexisting signs to continue as long as they are not altered. It also establishes a separate sign appeals board to hear appeals of the building commissioner's decisions and to grant relief from the provisions of the bylaw.

### *United States Sign Council Model Bylaw*

The United States Sign Council (USSC), a sign industry trade organization has a model sign bylaw. Of course, its mission is to represent the interests of makers and owners of signs. However, its model bylaw provides for legally preexisting signs to continue, but requires that they be brought into compliance if changed in any way. It also requires temporary signs to come into compliance within 2 months of adoption of the bylaw.

### **Recommendations for Additional Research and Discussion**

In addition to the primary question of whether Medway should move its sign bylaw from the Zoning Bylaw to the General Bylaws, there are a number of other issues that need to be considered and/or resolved. These include:

- (1) While Truro expressed doubt that a general bylaw could regulate signs by zoning district, the number of Towns that do this would seem to indicate that this is not the case. However, this should be verified.
- (2) Regardless of the legality of regulating signs by zoning district in the General Bylaws, Medway should consider the Brookline approach of leaving the specific sign standards in the Zoning Bylaw, but regulating all signs in the General Bylaw. It might be easier to tweak the sign regulations in the Zoning Bylaw and then adopt a new general bylaw pertaining to signs

rather than completely removing the sign requirements from the Zoning Bylaw and placing them in the General Bylaw. Would this approach still allow elimination of grandfathering rights? Would it be too confusing to have sign regulations in two different bylaw?

- (3) Decisions would need to be made about time periods for bringing signs into compliance as well as whether any types of signs would be allowed to remain as long as no changes are made.
- (4) Decisions would need to be made about whether a process for deviating from the standards (and thus allowing and/or encouraging more creativity) and/or establishing a process for appeals need to be adopted. Should the Dennis model of a separate sign appeals board be considered?
- (5) In addition to moving the sign bylaw from Zoning to the General Bylaw, are there any substantive tweaks that need to be made to the bylaw requirements themselves?



**Request for Extension of Deadline  
for Action by the  
Medway Planning & Economic Development Board**

11 SEPT 2012  
DATE

The undersigned Applicant (or official representative) requests an extension of the deadline for action by the Planning and Economic Development Board on the application of WAYNE MARSHALL for:

- ANR (Approval Not Required/81P Plan)
- Preliminary Subdivision Plan
- Definitive Subdivision Plan (or modification)
- Site Plan Approval (or modification)
- Scenic Road Work Permit

for the development project known as: NORWOOD ACRES

to the following date: 10 OCT 2012

*Respectfully submitted,*

Name of Applicant or official representative: WAYNE MARSHALL

Signature of Applicant or official representative: Wayne Marshall

\*\*\*\*\*

Date approved by Planning and Economic Development Board: 9-11-2012

New Action Deadline Date: 10-10-12

ATTEST: Susan E. Affleck-Childs

Susan E. Affleck-Childs  
Planning and Economic Development Coordinator



## **REMOTE PARTICIPATION POLICY**

### **Town of Medway, MA**

#### **1. PURPOSE STATEMENT**

The Office of the Attorney General amended the *Open Meeting Law* regulations at 940 CMR 29.00 effective November 11, 2011 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While all members of Town Boards are strongly encouraged to attend meetings in person whenever possible, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by public bodies under the *Open Meeting Law, M.G.L. c.30A, Sections 18-25*.

#### **2. ENABLING AUTHORITY – 940 CMR 29.10(8)**

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

#### **3. ADOPTION OF REMOTE PARTICIPATION**

In accordance with 940 CMR 29.10(2)(a), the Board of Selectmen, on June 4, 2012, voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town and applicable to all subsequent meetings of all local public bodies in the Town. In accordance with 940 CMR 29.10(3), the Board of Selectmen may add additional restrictions it wishes to impose or revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, commissions, committees, sub-committees and working groups regardless of whether such public bodies are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

#### **4. MINIMUM REQUIREMENTS FOR REMOTE PARTICIPATION**

No member of a public body shall participate in a meeting remotely unless the following requirements are met:

- (a) Members of the public body who participate remotely and all persons present at the meeting locations shall be clearly audible to each other;

- (b) A quorum of the body, including the chair or the person authorized to chair the meeting, shall be physically present at the meeting location in accordance with *M.G.L. c.30A, section 20(d)*;
- (c) Members of the body who participate remotely must have access to the same materials being used at the meeting location.
- (d) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of *M.G.L. c.30A, section 23(D)*.

*Section 23D (a): Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for one or more types of adjudicatory hearing, a member of any municipal board, committee, or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.*

## **5. PERMISSIBLE REASONS FOR REMOTE PARTICIPATION**

It is the express desire of the Board of Selectmen that remote participation in meetings be an infrequent event, for both individual board members and public bodies as a whole. Chairs of public bodies are encouraged to interpret these rules in a strict fashion and to continue to encourage all members to attend meetings in person as a general rule, due to the inherent benefits of physical presence in a meeting.

A public body member may attend a meeting through electronic conferencing if his or her physical presence at the meeting is prevented due to extenuating circumstances such as: personal illness or disability; a family or other emergency; military service; geographic distance (due to personal employment or business on behalf of public body).

Any determination by the person chairing the meeting to allow or not to allow remote participation shall be final and shall not be appealable.

## **6. ACCEPTABLE METHODS OF REMOTE PARTICIPATION**

Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive communication, if said technology is already available.

- (i) Telephone, internet, or satellite-enabled audio or video conferencing
- (ii) Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another
- (iii) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

The public body shall determine which of the acceptable methods may be used by its members taking a one-time vote authorizing remote participation by one or various methods for all future meetings.

If technical difficulties arise as a result of utilizing remote participation, the chair should suspend discussion while reasonable efforts are made to correct any problem which interferes with the remote participant's ability to hear or be heard clearly by all persons at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection (and subsequent reconnection, if achieved) occurred shall be noted in the meeting minutes. If a public hearing or meeting continues after disconnection, the member shall be noted as absent.

The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member.

## **7. PROCEDURES FOR REMOTE PARTICIPATION**

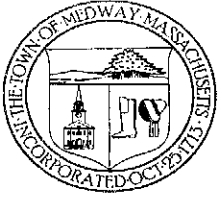
Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to the meeting, notify the chair or person serving as chair of the meeting of his or her desire to do so and the reason for and facts supporting his or her request.

- (i) Prior to the meeting, the chair shall make every effort to ensure the equipment is available and functioning properly. If the required equipment is not available, the chair shall deny the request for remote participation.
- (ii) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.
- (iii) All votes taken during any meeting in which a member participates remotely shall be by roll call vote. Members may participate remotely even if they are not qualified to vote.
- (iv) Remote participants shall preserve the confidentiality of the Executive Session. The remote participant shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by simple majority vote of the public body, and that the session is not being remotely recorded by any device.
- (v) The Town shall not be responsible for the reimbursement of any out-of-pocket expenses associated with the remote participation of public body members. The expense associated with use of any teleconference service must be authorized by the Town Administrator and funds must be available within the public body's budget authorization prior to procuring the service.
- (vi) Public bodies which review plans that include exceptional detail, are sized in such a manner to preclude easy electronic transmission at an appropriate scale, or have been modified since distribution are cautioned that remote participation may trigger appeal or unwanted litigation over approvals or denials of land use applications. The nuances of discussion on such details may be lost even via teleconferencing technology rendering remote participation impractical.

Both the municipality as a whole and individual public bodies are authorized to adopt procedures that prohibit or further restrict the use of remote participation.

*Note: Consideration should be given to the proposed language in the Charter regarding associate members on public bodies. Associate members should be utilized in the absence of members of public bodies when deemed appropriate by the chair.*

*Date adopted by Board of Selectmen: June 4, 2012*



# Town of Medway

## Remote Participation Request

I, \_\_\_\_\_ (print name), hereby request to participate remotely at the meeting of the \_\_\_\_\_ (Board/Committee/Commission) to be held on \_\_\_\_\_ (date). I certify to the Chair that my absence is the result of one or more of the following factors which make my physical presence unreasonably difficult:

- \_\_\_\_\_ (1) Personal Illness or Disability      \_\_\_\_\_ (2) A Family or Other Emergency  
\_\_\_\_\_ (3) Military Service                              \_\_\_\_\_ (4) Geographic Distance (Employment / Board Business)

Explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

During the meeting, I will be at the following location:

\_\_\_\_\_ Address

\_\_\_\_\_ Phone Number

\_\_\_\_\_ Signature of Member

\_\_\_\_\_ Date

**Please sign and return to Chair**

Request received by \_\_\_\_\_  
Chair (please print)

\_\_\_\_\_ Date

Method of Participation \_\_\_\_\_ (e.g. speakerphone)

Request Approved \_\_\_\_\_ Request Denied\* \_\_\_\_\_

\_\_\_\_\_ Signature of Chair

\_\_\_\_\_ Date