

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF:** Fox Run Development Group, LLC  
Petitioner

**PREMISES OWNER:** Mujeeb Ahmed

**OPINION OF THE BOARD**

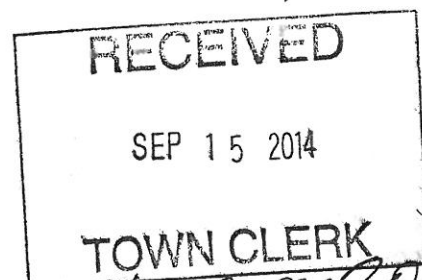
**REQUEST FOR MODIFICATION SECTION 40B  
COMPREHENSIVE PERMIT**

Morningside Drive  
Medway, MA 02053

Hearing: August 6, 2014  
Decision: September 11, 2014

**MEMBERS PRESENT:** David Cole, Chairman  
Anthony Biocchi  
Carol Gould  
Craig Olsen  
William Kennedy

**THE WRITTEN OPINION WAS DELIVERED ON SEPTEMBER 11, 2014**



## **OPINION OF THE BOARD**

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA (hereinafter the Board) acting under the Zoning By-Laws of the Town of Medway, MA, 02053 and the Massachusetts General Law C40A, as amended, in which the petitioner, Fox Run Development Group, LLC, Request for Modification of the Section 40B Comprehensive Permit located at Morningside Drive, Medway, MA 02053.

### **Hearing**

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on July 23rd and 30th, 2014. Notice also was sent to all "parties in interest" and posted in the Town Hall as required by Massachusetts General Laws Chapter 40A, Section 11.

The Public Hearing was held and the record closed on Wednesday, August 6, 2014. At the hearing, no one from the public spoke in favor of, in opposition to the application.

### **Hearing Summary**

Appearing on behalf of the applicant, Fox Run Development Group, LLC, was Mujeeb Ahmed. This application is to modify the Comprehensive Permit under Section 40B to eliminate street lights, the requirements for sidewalks and to change the curbing from a combination of Cape Cod Asphalt Berm and concrete curbing to all curbing to be concrete. The elimination of the street lights will save money for the Town. The applicant presently a petition signed by all the homeowners living at Fox Run Farm stating that they did not feel a need for street lighting or sidewalks within the development, and this petition was added to the record. An e-mail received and added to the record from Thomas Holder, Director, DPS, stating for public safety, the intersection of Morningside Drive and Holliston Street is already well lit by existing lights. For these reasons, the DPS is not supportive of having street lights installed at Fox Run Farm.

Mr. Ahmed explained that with the elimination of the previously proposed sidewalk there was no longer any good reason to have two different forms of curbing on the opposed sides of the road, and given the greater durability of concrete curbing he proposed to use concrete curbing throughout the development.

### **Findings**

By unanimous Votes of 4-0, the Board finds:

1. The elimination of street lighting in the proposed development would not be substantially detrimental to the public good.
2. The elimination of the sidewalks previously required would not be substantially detrimental to the public good.
3. The changing of the curbing from a combination of Cape Cod Asphalt Berm and some concrete curbing to all concrete curbing would not be substantially detrimental to the public good.
4. The applicant presented evidence that the proposed elimination of street lighting, sidewalks and change of curbing was favored by the majority of residents of Morningside drive and a letter received by the Medway DPS for the elimination of street lighting, sidewalks and all concrete berms.

**Relief Granted**

By unanimous Vote of 4-0, the Board grants to the applicant, Fox Run Development Group, LLC an amendment to the existing Comprehensive Permit Section 40B for Fox Run Farm to permit the elimination of street lighting, elimination of sidewalks and changing of the curbing from a combination of Cape Cod Asphalt Berm and concrete to all concrete curbing, located at Morningside Drive, Medway, MA 02053, with the following terms and conditions:

- (a) The applicant shall prepare and provide to the Planning and Economic Development Board (PEDB) revised plans showing the changes made by this Amendment to the Comprehensive Permit; and
- (b) The applicant and the Town Engineer shall meet and agree on what net savings, if any, will result to the applicant from this Amendment and the PEDB shall have authority to determine the disposition of the savings thus determined.

The Board specifically notes that, except for the new plans required by Condition (a) above, the changes permitted by this Amendment do not require any changes in the conditions attached to the Comprehensive Permit as issued and previously amended.

The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

***IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW, CHAPTER 40A, SECTION 11 NO COMPREHENSIVE PERMIT OR AMENDMENT THERETO TAKES EFFECT UNTIL RECORDED IN THE REGISTRY OF DEEDS.***



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David Cole, Chairman



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Anthony Biocchi



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Carol Gould

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