

**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**

**MINUTES OF MEETING NOVEMBER 3, 2010**

All five members of the Board were present. The Chair called the meeting to order at 7.45 p.m. By unanimous consent, the Board proceed to reorganize. On a motion made by Ms. Gould and seconded by Mr. Gluckler, Mr. Musmanno was nominated as Chair. There being no other nominations, a vote was taken and Mr. Musmanno was elected unanimously. On a motion made by Mr. Biocchi and seconded by Mr. Musmanno, Mr. Cole was nominated as Clerk. There being no other nominations, a vote was taken and Mr. Cole was elected unanimously.

The Chair then introduced Mr. David Pellegri, of Tetra Tech Rizzo, the Town's consulting engineer, to the Board.

By unanimous consent, the Board then agreed to taking up the application of Fox Run Farms for an amendment to their Section 40B comprehensive permit. No representative of the applicant was present. Mr. Pellegri stated that it appeared to him that the impervious area would not increase as a result of the proposed amendment, so the drainage and infiltration system should not require major changes. There is no change to the roadway alignment. However, an engineering review of at least the changes to the site is justified since the proposed amendment represents more than a superficial change; three or four hours review by an engineer should suffice, and the engineer would make recommendations regarding changes in the conditions of the permit. There is no need for a review of the roadway layout.

Ms. Alison Slack and Ms. Affleck-Childs appears on behalf of the Affordable Housing Committee. The Committee noted that the original proposal was for 15 units with 5 affordable, whereas the proposed amendment is for 12 units with 3 affordable. The Committee wants four affordable units in the amended plan; the original proposal was 33% affordable, and a difference of two affordable units is substantial.

The Board then proceeded by unanimous consent to hear the application of Mr. John Babineau for a variance for 7 Buttercup Lane. Mr. Babineau appeared on his own behalf and explained that there were several similar variances in the neighborhood,

including on the two adjacent lots. Mr. Edward Bryson of 11 Buttercup Lane stated that he had a 2004 addition with a 3 foot variance from the side setback on the South side of the lot, and Mr. Mark Bourque of 9 Buttercup Lane stated that he had received a variance from front setback in 2001 and possibly also a 3 foot side setback variance. Both these neighbors stated they were in favor of granting the proposed variance.

In response to questions from the Board, Mr. Babineau stated that the building on the other side of the lot line from the proposed variance is 12 to 13 feet from the lot line, and this estimate was confirmed by the owner of 9 Buttercup. The proposed addition would add an additional bay to the existing garage.

There were no further questions or statements from the public. A motion to close the hearing was made by Mr. Biocchi, seconded by Ms. Gould and passed unanimously. On a further motion made by Mr. Biocchi, seconded by Mr. Musmanno and passed unanimously, the Board moved to immediate consideration of Mr. Babineau's application. On a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, the Board found that the petitioner demonstrated that buildings on adjoining lots vary from setback requirements prescribed in Section V.F.7 of the Zoning ByLaw. On a motion made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously, the Board found that the grant of relief in this case will not cause substantial detriment to public good. On a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, the Board found that grant of relief in this case would not be inconsistent with the criteria set out in Section III.J of the ByLaw. Finally, on a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board granted the requested relief to a 12 foot side setback in accordance with the Plan provided at the hearing, entitled "17 Buttercup Lane", dated September 2010 and initialed by the members of the Board.

The Board then proceeded by unanimous consent to consider the proposed amendment of the Fox Run Farms comprehensive permit. The Chair drew attention to the list of changes which may be considered substantial, as set forth in 760 CMR 56.07.4c. On a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board found that the proposed change is substantial, specifically with regard to changes in building type and the increase in the number of buildings. On a further motion

made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board agreed to take the following actions:

1. To communicate to petitioner its finding of the substantial nature of the proposed change and of its filing fee of \$1508.00 with description of how that amount was determined; to require notification and all materials in support of the proposal be submitted to Town not later than November 18; and that failure to supply the fee and material by said date will result in automatic denial;
2. That the Board advertise the hearing date of December 1 and propagate the preliminary plan and the description of the proposal to relevant Town Boards etc., abutting property owners and other parties in accordance with permit hearing issuance notifications; and
3. That the Board authorize the Chairman to engage the Town's consulting engineering to review the materials if they and the fee are received.

On a motion moved by Mr. Biocchi, seconded by Mr. Musmanno and passed by a vote of 4-0, the minutes of the August 31, 2010 Board meeting as presented by the Clerk were approved. Ms. Gould abstained as she was not present at the earlier meeting.

On a motion made by Mr. Biocchi, seconded by Mr. Gluckler and passed unanimously, the Board adjourned at approximately 9:15 pm.