

Municipal Affordable Housing Trust
Meeting Minutes
May 31, 2012 @ 12:00 p.m.
Room 124 @ Town Hall

Present was: Sandy Smith, Jim Lehan, Bill Crump, Bill Conklin, Mark Henney, Scott Dittrich and Susan Jacobson.

Scott Dittrich called the meeting to order at 12:09 p.m.

Open meeting resumed at 12:28 p.m.

The Trust determined that 63 Meetinghouse Circle would remain deed restricted no matter who purchased the property. There would be no vote to purchase this property.

234 Main Street:

This property is back on the market .Scott feels that the property that this piece of property would be a great purchase for the Trust. Scott would like to revisit this at the next meeting.

Gump's Report:

Mr. & Mrs. Osborne were in the audience. Jim reported that the only remaining issue would be an appeal based on the ZBA hearing which was held on May 16th, there is a 20 day appeal period at this point there has been no appeal.

Jim Lehan visited the Osborne's property to review the issue with the property line. The home that is going to be built at 25 Boardman Street encroaches on the driveway. Jim has spoken to the BOS and they want to change that. The land should be marked appropriately. The Stonewall would be a good point of reference. Susan will contact an engineering firm to resolve this issue.

82 Main Street:

The Trust is waiting for the cost breakdown of the home. The property will be sold to a non- profit organization and sold back to the Trust. The lawyers are working on the RFP and Sale documents.

At 1:25 p.m., being no further business, Bill Crump moved to adjourn the meeting. It was seconded by Jim Lehan and it **was so voted.**



Tom Cleverdon, Clerk

EXECUTIVE SESSION

May 31, 2012

Present was Scott Dittrich, Bill Crump, James Lehan, Sandy Smith, Mark Henney, Bill Conklin and Susan Jacobson, Administrative Assistant.

At 12:02 p.m., Scott Dittrich moved to go into executive session to discuss strategy with respect to potential litigation that may result with Paddocks and Corrals (Gump's Farm Property). It was seconded by Bill Crump, and it was a roll call vote: Bill Conklin, **aye**; Jim Lehan, **aye**; Sandy Smith, **aye**; Mark Henney, **aye**.

There was discussion concerning a contract issue between Howard Bailey and Walter Mahla the partnership may be dissolving. Jim Lehan informed the Trust members that he has been in touch with Town Counsel and they are reviewing the contract between the Trust and Paddocks and Corrals. There is a legal issue between the two of them and they are both engaging attorneys.

Discussion was had on how to address the public and if we should delay the lottery.

At 12:25 p.m., Scott Dittrich moved to adjourn the executive session. Bill Conklin seconded and it was a roll call vote: Bill Crump **aye**; Sandy Smith **aye**; Bill Crump, **aye**; Mark Henney, **aye**.

This is a true and accurate report of the Executive Session of May 31, 2012.

A handwritten signature in cursive script, appearing to read "Tom Cleverdon", written over a horizontal line.

Tom Cleverdon, Clerk

Affordable Housing



**TOWN OF NORFOLK
ZONING BOARD OF APPEALS**

ONE LIBERTY LANE
NORFOLK, MASSACHUSETTS 02056

TEL: (508) 541-8455
FAX: (508) 541-3377

www.virtualnorfolk.org

NOTICE OF DECISION

SPECIAL PERMIT - GRANTED

Case: #2012-03
6 Medway Branch Road
Norfolk, MA 02056
Map 14, Block 48, Lot 02-1
Zone: R-1

2012 MAY 30 AM 11:26
TOWN CLERK
NORFOLK

OWNER/APPLICANT:
Paddocks and Corrals, LLC
23 Rhodes Dr.
Wrentham, MA 02093

Owner:
Town of Norfolk
One Liberty Lane
Norfolk, MA 02056

In accordance with Massachusetts General Laws, Chapter 40 A, § 9, as amended, and Section D1.a. of the Norfolk Zoning Bylaws, a **SPECIAL PERMIT** is hereby granted to allow for the clear cutting of trees (**after the fact**) within the side and/or rear setback on the property addressed as 6 Medway Branch Road – Lot 02-1 in the R-1 zoning district. This **SPECIAL PERMIT** is subject to the **CONDITIONS** referenced below.

Based upon the evidence and testimony presented at the public hearing held on May 16, 2012, as documented in the Detailed Record of this case, the Board makes the following findings regarding this application.

FINDINGS:

1. The property that is the subject of the application is addressed as 6 Medway Branch Road – Lot 02-1, Norfolk, MA which is zoned Residential-1 (R-1). The property is shown on Assessor's Map 14 as Block 48, Lot 02-1.
2. The subject lot is a corner lot at the intersection of Boardman Street and Medway Branch Road and is being developed by Paddocks and Corrals to comply with the zoning requirement that at least 10% of the units in a subdivision (Toils End Farm) shall be established as affordable housing units.

3. The Applicant opted to locate 4 of the affordable units off site on the frontage lots surrounding Gump's Farm. The area that was clear cut of trees is along the Boardman Street frontage of 6 Medway Branch.
4. A revision to the site plan entitled "Sewage Disposal System", dated 3/6/12, prepared by Andrews Survey and Engineering, Inc. now depicts the locations of two (2) Red Oaks trees, three (3) Sugar Maple trees, and three (3) Pin Oaks trees. Seven (7) of the trees will be planted within the side (Boardman Street) and rear setbacks of the lot. The revision to the plan showing the location and species of these 8 trees to be planted was prepared by a landscape architect identified as GLA (Gates, Leighton & Associates) from Providence, R.I.
5. The applicant (Mr. Bailey) stated that the cutting occurred because they thought that the driveway was going to be along Boardman Street instead of Medway Branch Road. The plan has been revised to show the driveway now from Medway Branch Road.
6. The applied for Special Permit is to allow for the **after the fact** clear cutting of trees within the yard setback along Boardman Street. Section D.1. of the Norfolk Zoning Bylaws prohibits the cutting down of any trees within the 25 foot side and/or rear setbacks unless relief is granted by a special permit from the Zoning Board of Appeals. In accordance with Section D.1.a., a Zoning Bylaw in effect since 1989, no land clearing or clear cutting of trees for new residential dwellings (including additions, accessory buildings and septic systems) is allowed prior to issuance of all required approvals, permits, variances, licenses and authorizations.
7. The applicant is proposing to replant eight (8) 2 ½ to 3 inch caliper trees. Once the septic system is built and regarded they would be able to replant the trees. No trees would be planted over the leach area. Seven of the trees would be planted between the septic system and the stone wall along the Boardman Street setback and the rear setback of the lot.
8. While it looks like a lot of trees were cut, the Applicant would be allowed to cut trees within the area of the septic system as shown in the site plan. The actual area of disturbance that was not allowed to be cut is smaller and being addressed by the proposed replanting.
9. Board Chairman Kulesza indicated that larger caliper trees should be planted along the Boardman Street area, which would also address some questions of the actual replacement tree height being too small.
10. The abutting properties are zoned Residential R-1 as well. At the public hearing abutters in attendance had their questions addressed directly by the applicant's presentation or applicant's response and/or supported significant mitigation plantings as part of a solution in this matter.

DECISION

Norfolk Zoning Bylaws, Section D.1.a. of the *Norfolk Zoning Bylaws*, prohibits the cutting down of any trees within the 25 foot side and rear setbacks unless relief is granted by a Special Permit by the Zoning Board of Appeals.

The Board addressed the general criteria for a Special Permit as follows (see *Norfolk Zoning Bylaws* Section G.6.c.):

1. *That the use is in harmony with the general purpose and intent of the bylaw.*

The use of the property will be residential and in harmony with the local residential area. The Special Permit application before the Zoning Board of Appeals is to allow for the clear cutting of trees (after the fact) within the yard setbacks.

2. *That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.*

The applicant (Mr. Bailey) stated that the cutting occurred because they thought that the driveway was going to be along Boardman Street instead of Medway Branch Road. Conditions will be included in this Special Permit to require mitigation plantings to maintain the character of the residential area.

3. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use.*

The future residential use will be serviced by town water service, subsurface septic system and underground utilities.

4. *That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, noise, sewage, refuse materials, visual or other nuisances.*

The abutting properties are also zoned Residential R-1. The proposed use of a single family residence will be consistent with the abutting land zoning requirements and will not be detrimental to the abutting properties when constructed in accordance with Conditions imposed.

5. *That the proposed use would not cause undue traffic congestion in the immediate area.*

No undue traffic concerns should arise from the addition of single family residence at this address. The driveway for this corner lot will also be located on Medway Branch Road instead of busier Boardman Street in consideration of local street traffic.

6. *That a proper site plan has been filed for approval with the Planning Board and that the proper number of copies has been submitted with the application for a Special Permit.*

The plan of record on file with ZBA is entitled "Sewage Disposal System", dated 3/6/12, prepared by Andrews Survey and Engineering, Inc and revised to show the locations of two (2) Red Oaks trees, three (3) Sugar Maple trees, and three (3) Pin Oaks trees to be planted as a mitigated solution to the clear cutting violation.

7. *That the use and/or purpose is consistent with the 1992 Master Plan, as most recently updated.*

The Board found that this use is consistent with Norfolk's 1992 Master Plan, as most recently updated.

In consideration of the above Findings and Decision, the Board voted unanimously to **grant** a Special Permit to the Applicant, **subject to the CONDITIONS specified below:**

CONDITIONS:

1. While the applicant proposes to replant eight (8) 2 ½ to 3 inch caliper trees, the board **CONDITIONS** that the 5 specific trees to be planted along Boardman Street be in the next caliper range (**a minimum of 4 inches in caliper**). The trees should be replanted as soon as possible and before this next winter if possible. Once the septic system is installed they should be able to replant all or the balance of trees along Boardman Street and all trees must be in place prior to the issuance of an occupancy permit for 6 Medway Branch Road.
2. The trees shall be nursery purchased and shall have a viability guarantee by the nursery. The trees shall be planted to ensure maximum opportunity for viability and maintained by the Applicant or his designee(s) in a healthy and viable state for a period of two growing seasons; and replaced as necessary if the trees fail to thrive.
3. The Applicant shall notify any subsequent owner of 6 Medway Branch in writing of the **CONDITION** that the trees shall not be removed within two years of the planting date of the trees. The trees will not be cut down or removed unless they die of natural causes or infestation. The trees shall be replaced in kind during the two year period from the planting date if lost through such natural causes. The Building Inspector and the Zoning Board of Appeals shall be notified of any loss of trees during that period and the timetable for replacement.

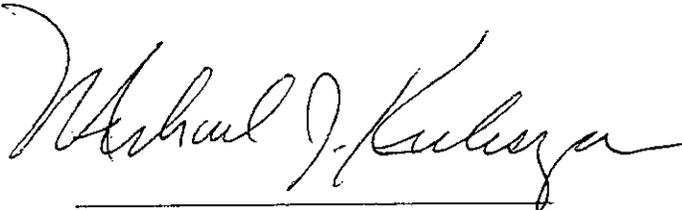
Appeals, if any, shall be pursuant to Section 17, Chapter 40A of the Massachusetts General Laws, as amended, and shall be filed within twenty (20) days of the filing of this notice as stamped above, in the office of the Town Clerk.

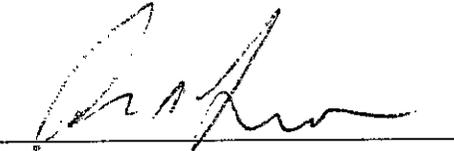
In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, as amended, the Special Permit herein granted is valid only after a copy of this decision bearing Town Clerk certification is recorded in the Registry of Deeds in the Grantor Index under the name of the owner of record, or is recorded and noted on the owner's certificate(s) of title. The Town Clerk certification must indicate that twenty days from the stamped date have elapsed and no appeal has been filed, or if such an appeal has been filed, that it has been dismissed or denied.

Pursuant to Section G.4 of the Norfolk Zoning Bylaws, this Special Permit shall lapse if the construction allowed or use permitted has not commenced by one year from the date the permit becomes valid. Any use permitted by Special Permit that is discontinued for a period of one year

or more shall cause the Special Permit to lapse. The Zoning Board may extend the period if it finds that the construction or use permitted by the Special Permit was not commenced for a good cause.

Notice of Decision, Case #2012-03
6 Medway Branch Road



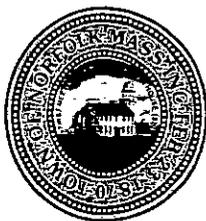




I hereby attest that twenty (20) days have elapsed from the stamped date of this decision and that no appeal has been filed in this office.

A true copy attest: _____
Town Clerk Date

cc: Town Clerk
Applicant
Abutters to abutters within 300'
Planning Boards of Norfolk, Wrentham, Millis, Medway, Walpole, Foxboro,
Franklin
Building Commissioner/Zoning Officer
Conservation Commission, Planning Board
Board of Assessors, Board of Health
Board of Selectmen, Town Counsel
Police Chief, Fire Chief, DPW



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DETAILED RECORD OF CASE #2012-03

Case: #2012-03
6 Medway Branch Road
Norfolk, MA 02056
Assessors' Map 14, Block 48, Lot 02-1 Zone: R-1

2012 MAY 30 AM 11:26

TOWN CLERK
NORFOLK

In accordance with Massachusetts General Laws, Chapter 40A, as amended, a public hearing was held in room 105C at the Norfolk Municipal Building, One Liberty Lane, on Wednesday, May 16, 2012.

The subject was the application of **PADDOCKS AND CORRALS** submitted on March 3, 2012 for a Special Permit in accordance with M.G.L. chapter 40A, §9, and the Norfolk Zoning Bylaws, Section D.1.a. for the clear cutting of trees (after-the-fact) within the side and/or rear setback on the property addressed at **6 Medway Branch Road** in the R-1 zoning district. Reference Assessors' Map 14, Block 48, Lot 02-1.

Notice of the time, place and purpose of the hearing was published in the *Sun Chronicle* on Wednesday, May 2, 2012 and Wednesday, May 9, 2012. Notice was also given the Applicant and to the attached list of abutters by mailing a copy of the notice to each of them. Also notified of the hearing were the Building Inspector/Zoning Officer, Board of Selectmen, Town Counsel, Board of Assessors, Conservation Commission, Board of Health, Police Chief, Fire Chief, Department of Public Works, Tax Collector, and the Planning Boards of Norfolk, Wrentham, Foxboro, Millis, Walpole, Medfield, Franklin and Medway. A copy was filed in the office of the Town Clerk.

The Hearing convened at 7:45 p.m.

The Clerk, Joseph Sebastiano, read the Notice of hearing into the record. Full Members present were Michael Kulesza, Robert Luciano, Joseph Sebastiano, and Associate Members, Christopher Wider and Jeffrey Chalmers. Full Member David Pergola was not present.

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The Applicant, Howard Bailey, was present as was Kathy Kadorka and Nicholas Bailey. Others in attendance signed an attendance sheet, which was entered into the public record for this case.

Mr. Kulesza announced that the public hearing was being audiotaped

Howard Bailey presented a revised plan entitled "Sewage Disposal System", dated 3/5/12, prepared by Andrews Survey and Engineering, Inc. This plan depicts the locations of two (2) Red Oaks, three (3) Sugar Maple, and three (3) Pin Oaks. Seven (7) of the trees species will be located within the side and rear setbacks of the lot. The revision to the plan showing the location and species of trees was prepared by a landscape architect identified as GLA (Gates, Leighton & Associates) from Providence, R.I. The subject lot is a corner lot on Boardman Street and Medway Branch Road and is being developed by Paddocks and Corrals to comply with the zoning requirement that at least 10% of the units in a subdivision (Toils End Farm a.k.a Fox Run) shall be established as affordable housing units. The Applicant opted to locate 4 of the affordable units off site on the frontage lots of Gump's Farm. The area that was clear cut of trees is along the Boardman Street frontage of 6 Medway Branch.

Mr. Bailey stated that the cutting occurred because they thought that the driveway access was going to be from Boardman Street instead of Medway Branch Road. The plan has been revised to show the driveway now from Medway Branch Road. The location of the driveway along Medway Branch Road makes the area of cutting within the side yard setback. Mr. Howard's engineers referred to Google Earth to determine that 4 trees were probably cut in addition to saplings. They are proposing to replant eight (8) 2 ½ to 3 inch caliper trees. That caliper of tree is usually 10-14 feet in height. Once the septic system is built and regarded they would be able to replant the trees. No trees would be planted over the leach area. Seven of the trees would be planted between the septic system and the stone wall along the Boardman Street setback and the rear setback of the lot.

Mr. Bailey showed the re-vegetation plan to the audience.

Mr. Miller, a resident of 36 Boardman Street questioned the height of the trees.

Mr. Kenneth Osborn, a resident of 23 Boardman Street, noted the drop in elevation from Medway Street for the construction of the driveway.

The driveway to the proposed dwelling will be approximately 160-200 feet in length. It was questioned why the driveway was off Medway Branch Road rather than Boardman Street.

Mr. Kulesza noted that it looks like a lot of trees were cut, but the Applicant was allowed to cut trees within the area of the septic system. The actual area of disturbance that was not allowed to be cut is very small.

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Mr. Kulesza noted that he personally would advocate that larger caliper trees be planted along the Boardman Street area.

Mrs. Henny Smith, a resident of Medway Branch Road, noted that she drove by the dwelling that is being reconstructed by Paddocks and Corrals on Mirror Lake Avenue. She questioned how the house could be rebuilt when the foundation is lying in water. Mr. Kulesza stated that Mrs. Smith should contact the Affordable Housing Committee and Conservation Commission. Mr. Bailey stated that the reconstruction has received all of the permits required for the demolition and reconstruction of the house.

Mr. Bailey noted that Paddocks and Corrals is rebuilding the Mirror Lake house first and then will be rebuilding an affordable house on the Gump's farmhouse lot. He noted that this is a 1 ½ to 2 year project.

Mr. Sebastiano made the motion to close the public hearing at 8:12 p.m. Mr. Luciano seconded the motion. The vote on the motion was unanimous.

Deliberations:

The Board immediately convened the deliberations on this matter. The abutters and the Applicant were not present.

Mr. Sebastiano made the motion to grant a special permit in accordance with section D.1.a. of the Norfolk Zoning Bylaws to Paddocks and Corrals for the clear cutting of trees within the side setback of the lot known as 6 Medway Branch Road.

The Board noted that the Applicant is replacing trees on a 2:1 basis. The trees would be Pin Oak, Sugar Maples and Red Oak. The trees were clear cut prior to the issuance of a building permit. The Building Inspector thought there were between 4-5 large pine trees removed.

Mr. Kulesza stated his concern with the small caliper sized trees. He noted that when he constructed his house he had 4-5 inch caliper trees planted. The trees are now mature and healthy. The larger sized trees would be more expensive. Mr. Chalmers wanted to see a revised plan depicting more details on the trees. After a brief discussion it was determined that the species of trees and location of the trees appear to be acceptable. The Board will condition that the caliper of trees be increased. The Board concurred that they would want to see a minimum of 12 foot high trees.

The Board determined that they would also condition the special permit that four (4) trees proposed to be planted along Boardman Street would be at a minimum 3 ½ inch to 4 inches at planting. The remaining four (4) trees shall be between 2 ½ inch to 3 inches in caliper size. The Board noted the 4 trees that would be of the larger caliper.

The tree shall be irrigated on a regular basis by the Applicant for at least two (2) years at the rate of one inch per week depending upon the weather. If the trees fail to thrive or die

Case #2012-03, 6 Medway Branch Road

within two years from the date of planting, the Applicant shall replant the same caliper sized tree in its place. The trees shall be planted prior to September 1, 2012.

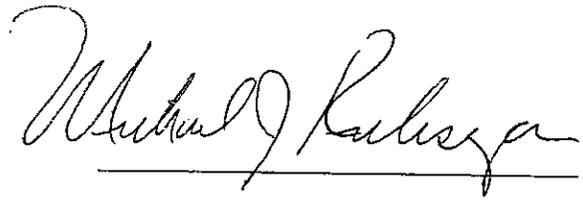
The vote on the motion to grant with conditions was as follows:

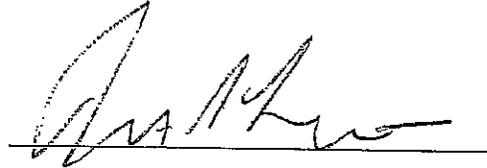
Christopher Wider -----yes to grant
Jeffrey Chalmers ----- yes to grant
Robert Luciano ----- yes to grant
Joseph Sebastiano ----- yes to grant
Michael Kulesza ----- yes to grant

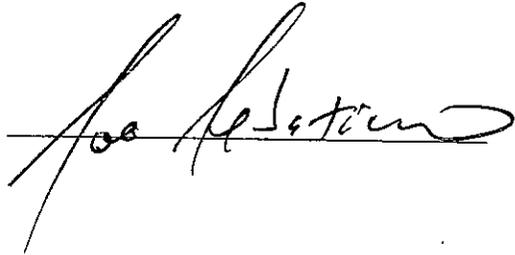
The vote on the motion to grant with conditions was unanimous. The deliberations and vote closed at 8:55 p.m.

In accordance with the requirements of G.L. 39 § 23B, approval of these minutes by the Board constitutes its certification of the date, time and place of the meeting, the members present and absent, the matters discussed , and the action taken by the Board with regard to those matters (if any). Any other information contained in these minutes is included for context only. Notes memorializing deliberation or discussion of any matter are in the summary form and may include inaccuracies or omissions. Where proof of the content of a statement is required, a tape recording or transcript should be consulted, if available.

Detailed Record, Case #2012-03
6 Medway Branch Road







cc: Applicant(s)
Town Clerk
Board of Selectmen
Town Counsel
Building Commissioner/Zoning Officer