



# TOWN OF MEDFIELD

*Office of the*

## BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET  
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 359-3027  
(508) 359- 6182 Fax

MEETING OF:  
**March 12, 2020**  
MINUTES

**Members Present:** John J. McNicholas, Chairman; William McNiff, Member; Jared Spinelli, Associate Member

**Members Absent:** Michael W. Whitcher, Member; Jared Gustafson, Associate Member; Charles H. Peck, Associate Member

**Staff Present:** Sarah Raposa, Town Planner; Marion Bonoldi, Recording Clerk

**Others Present:** Paul Haverty, Michael Larkin, Stephanie Kiefer

**Location:** Medfield Town House, 2nd floor meeting room

At approximately 6:30 pm, Chairman Jack McNicholas called the meeting to order and announced the meeting is being recorded. Chairman McNicholas introduced Mr. William McNiff and Mr. Jared Spinelli and said they would be the sitting members of this particular meeting.

### **Comprehensive Permit Modification Request (per 760 CMR 56) Country Estates of Medfield, Hospital Road 40B - for approved floorplans (continued from 2/12/20)**

Chair McNicholas said the ongoing issue has been the reduction of bathrooms in the affordable units. Chair McNicholas said the Board requested that the applicant get documentation from MassHousing stating that MassHousing knew about the affordable unit bathroom number change.

Chair McNicholas said that the applicant has a letter from MassHousing that was just received however Mr. Paul Haverty or Ms. Sarah Raposa have not received it yet. Ms. Stephanie Kiefer, attorney for the applicant, forwarded the email from her smartphone. Ms. Raposa received the email and printed copies for the Board and Mr. Haverty to review.

Attorney Kiefer stated that last month the modification request of an insubstantial change was requested regarding the change of bathroom counts in the affordable units. Ms. Kiefer said she reviewed the 40B regulations regarding the difference between substantial and insubstantial changes. Ms. Kiefer said she contacted Mass Housing after the last meeting and spoke to Ms. Jessica Malcolm. Ms. Malcolm said that Mass Housing has no jurisdiction in responding to the Board and she directed Ms. Kiefer to 40B guidelines. Ms.

Kiefer said Ms. Malcolm's statement is "vanilla" but it is not something that Mass Housing "weighs in on". Ms. Kiefer reviewed the 40B guidelines and said that interior features or amenities do not need to be the same from the market rate units.

Ms. Raposa said that the Board asked the applicant to get confirmation that the final approval letter was on the revised plan with the reduced bathroom count. Mr. Paul Haverty, 40B Consultant for the Board, said that there was a phone call with himself, Ms. Sarah Raposa and Mr. Gary Pelletier, Building Commissioner to Ms. Jessica Malcolm. Mr. Haverty said they asked if MassHousing knew of the change. Mr. Haverty said that MassHousing did not know; as the change was not called out to MassHousing. Mr. Haverty said that MassHousing had the same plans that were approved by the ZBA. Mr. Haverty said the phone call conveyed that MassHousing was unaware of the bathroom count change. Mr. Haverty said the question is, now, if Mass Housing is okay with the change. Mr. Haverty said that the question is not if the bathroom reduction count meet the standards; the question is if the subsidizing agency is okay with the fact that the affordable units have a different count than the market rate units. Mr. Haverty said that he received more information from the phone call than email presented by Ms. Kiefer.

Ms. Kiefer said that walk-through's were given at the property before purchase through the lottery process and all purchasers signed an acknowledgement form. Ms. Kiefer said just because the Board doesn't like the posture of something; doesn't convert an insubstantial change to a substantial change. Chair McNicholas said it comes back to that the Board approved something and it was changed without approval; something went possible wrong with marketing. Ms. Raposa said there was a problem with marketing the units due to a typo. Ms. Raposa further stated that some changes were brought to MassHousing in the final approval process and not to the ZBA and some changes were made and not brought anywhere. Ms. Kiefer said that 40B guidelines were applied. Chair McNicholas said that it feels like Mr. Larkin was trying to get away with something.

Mr. Haverty said that if the Board determines that the change is insubstantial then nothing happens; the project continues with the change. Mr. Haverty said that if the Board determines that the change is substantial then there needs to be a public hearing within 30 days. Mr. Haverty said he would have liked something clearer from Mass Housing to help the Board with this decision.

Mr. McNiff said he was looking to get more from Mass Housing and that nothing has changed for him. Mr. McNiff believes losing a bathroom is a substantial change. Mr. Spinelli said that context matter to him. Mr. Spinelli believes a bathroom reduction is a substantial change for a family unit with first floor masters. Ms. Kiefer said the Board needs to look to the 40B regulations. Mr. Spinelli does not believe that because the regulations do not specifically give an example regarding the reduction of bathrooms does not automatically make it an insubstantial change. Mr. Haverty said examples of what is substantial and what is not is not helpful; the Board needs to determine if the subsidizing agency is okay with the change and the email from MassHousing was not helpful. Ms. Kiefer said the Board is saying that any change in the future is going to be substantial for this project or any future projects. Mr. McNiff, Mr. Spinelli and Chair McNicholas said they disagree.

Mr. McNiff made a motion that the bathroom reduction is the affordable units at Country Estates was a substantial change. Seconded by Mr. Spinelli. The Vote: 3-0.

Chair McNicholas said that the public hearing will be on Wednesday, April 8, 2020 at 7:00 pm and anyone that wants to be heard will have an opportunity at that time.

**ADJOURNMENT** - Mr. Spinelli made a motion for adjournment at approximately 7:18 pm. Seconded by Mr. McNiff. The Vote: 3-0.

**Respectfully Submitted,**

Marion Bonoldi, Recording Clerk

DRAFT