



# TOWN OF MEDFIELD

Office of the

## BOARD OF APPEALS

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

MEETING OF:  
**June 14, 2023**  
MINUTES

**Members Present:** Michael Whitcher, Acting Chair; Jared Gustafson, Member; Jared Spinelli, Member;

**Members Absent:** John McNicholas, Chair; William McNiff, Member; Kristine Barton, Associate Member

**Staff Present:** Maria De La Fuente, Land Use Director, Cara Wise, Administrative Assistant

**Others Present:** Michael Larkin, Attorney Edward Cannon, Richard Coulombre, Gary Pelletier, former Building Inspector/Commissioner

**Location:** Virtual Zoom Webinar

At approximately 7:00 PM Michael Whitcher Acting Chair, called the meeting to order and disclosed the meeting is being video recorded.

Mr. Whitcher discussed the rules and deliberation process regarding what will be heard before the Zoning Board of Appeals this evening.

### **ADMINISTRATIVE:**

### **HEARING**

*- Richard Coulombre and Jean Coulombre (applicant) seeks an appeal of the building commissioners determination pursuant to MGL ch 40A §8 for the issuance of Building Permit BP-23-219 issued April 25, 2023, regarding the following Medfield Zoning Bylaws: § 300 2.1 Height/Grade of Wall and § 300 Attachment 2 - Setback. The property is located at 10 Trailside Road; Assessors' Map 61 Lot 030; RT Zoning District with no Aquifer Protection Overlay.*

Attorney Cannon shared his screen showing pictures of the area of interest at 10 Trailside Road. He discussed the issues that are being brought forth regarding the retaining wall. Mr. Spinelli

asked Attorney Cannon if he received the relevant information, (i.e. memorandum, updated permit, etc.) regarding the retaining wall. Attorney Cannon discussed the height of the wall being the issue in discussion, as he does not believe it is within the Zoning By-Law standards. Attorney Cannon shared another picture showing how close the retaining wall is to the actual property line. He showed several other pictures regarding the retaining wall. The safety of the wall was discussed at length between Mr. Spinelli and Attorney Cannon. Attorney Cannon discussed the wall being built without a permit; however, a building permit has been issued since. Mr. Whitcher asked Attorney Cannon what Mr. and Mrs. Coulombre are seeking out of this hearing. Attorney Cannon specified that they would like the top tier of the retaining wall to be removed and keep the retaining wall at four feet and for it to be built to building code standards.

Mr. Pelletier discussed the history of this permit and the situation of the retaining wall. He also discussed the actions that have been taken up until this point (i.e. stop work order, etc.). Mr. Pelletier has received all the items that met the requirements to provide the building permit for the retaining wall. There is no argument that the wall does need to come down and be reconstructed according to the plans that have been submitted by Mr. Etzkorn's Engineer. Mr. Etzkorn has 180 days to comply with or complete the retaining wall with the building permit. Mr. Pelletier went on to discuss the Zoning By-Laws that are applicable and not applicable to this instance. He also discussed building codes that are not in violation pertaining to this situation. Mr. Pelletier pointed out that the wall is not complete and is still in the building phase and can still be corrected to be structurally sound and to meet the building code. Mr. Pelletier also stated that Mr. Coulombre is allowed to put up a temporary fence if he feels there is a fall danger. Commissioner Dana Hinthorne has been brought up to date on all instances regarding this situation. Mr. Etzkorn has provided all the correct documentation to be issued a building permit. Mr. Etzkorn has stated to Mr. Pelletier that he will be rebuilding the wall according to the engineer's plans.

Attorney Cannon stated that he strongly disagrees regarding the height in total of the retaining wall. He encourages the Board to do a site visit and look at the retaining wall in person. Attorney Cannon believes that it is still a safety issue and believes that Mr. Etzkorn should put up a safety barrier/rail/fence around this area while it is in the process of being rebuilt according to the engineer's plans. Attorney Cannon would like the fact that the top tier of the retaining wall does have to come down and that it should be put into writing as part of the permit. Mr. Whitcher commented that if they put a stop work order it will only prolong the process and as of right now Mr. Etzkorn is within his rights to still rebuild the retaining wall according to the engineer's plans. Should Mr. Etzkorn not comply or complete the repairs according to the engineers plans the Building Permit will become invalid. If that happens, it will be a building code violation and a complaint would have to be filed in district court. The judge would have more say regarding the retaining wall and if it has to come down.

**MOTION:** Mr. Spinelli made a motion to close the hearing.

**SECONDED:** Mr. Gustafson seconded the motion

**ROLL CALL VOTE:** Mr. Whitcher, aye, Mr. Gustafson, aye, Mr. Spinelli, aye

**MOTION CARRIES:** 3-0

## **DELIBERATIONS**

Mr. Whitcher discussed that this appeal is premature. Mr. Spinelli stated that Mr. Pelletier's memorandum was very helpful for this hearing. Mr. Whitcher and Mr. Spinelli believe that there is nothing that can be done at this time due to the 180-day period that Mr. Etkorn still has to work with at this time.

**MOTION:** Mr. Spinelli made a motion to deny the appeal.

**SECONDED:** Mr. Gustafson seconded the motion

**ROLL CALL VOTE:** Mr. Whitcher, aye, Mr. Gustafson, aye, Mr. Spinelli, aye

**MOTION CARRIES:** 3-0

**MOTION:** Mr. Gustafson made a motion to adjourn the meeting at approximately 8:30 PM

**SECONDED:** Mr. Spinelli seconded the motion

**ROLL CALL VOTE:** Mr. Whitcher, aye, Mr. Gustafson, aye, Mr. Spinelli, aye

**MOTION CARRIES:** 3-0

Respectfully submitted,  
Cara Wise, Administrative Assistant