

Country Estates of Medfield LLC

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January 30, 2020

Town of Medfield  
Zoning Board of Appeals  
Medfield Town Hall  
459 Main Street  
Medfield, MA 02052

VIA HAND DELIVERY

RE: Project: Country Estates of Medfield  
Applicant: Country Estates of Medfield, LLC  
Property: 21, 25 and 29 Hospital Road, Medfield, MA 02052  
Request for Modification to Comprehensive Permit Approved April 5, 2017/  
Notice of Insubstantial Change Pursuant to 760 CMR 56.05(11)

Dear Members of the Board:

The Applicant, Country Estates of Medfield, LLC, hereby submits a request for a modification to the Comprehensive Permit ("Permit") issued by this Board April 5, 2017 pursuant to 760 CMR 56.05(11)<sup>1</sup>, and as otherwise set forth in Section IV, Condition A.9 of the Permit.

As described herein, the Applicant's proposed modification to the project plans is limited to an adjustment to the number of bathrooms from the number of bathroom units as had been previously shown in the Preliminary Architectural Plans (Exhibit A of the Permit). Please note, there is no change to the location of the approved residential structures, no change to the height or massing of the structures and no change to the number of residential units or the bedroom count.

Accordingly, the Applicant submits this notice of change to the Board for its determination that the change is an insubstantial change in accordance with the factors contained in 760 CMR 56.07(4). In accordance with 760 CMR 56.05(11)(a), the Board is requested to determine and notify the Applicant of its determination within 20 days. Should the Board determine the change is insubstantial

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<sup>1</sup> Condition A. 9 of the Permit references that the Applicant may seek Board approval of a Permit change pursuant to 56.07(11). The reference to 56.07 (11) is a typographical error, as there is no such citation in the Chapter 40B regulations. Instead, the correct reference is to Section 56.05(11) ("Changes After Issuance of a Permit").

or otherwise fail to act during that time, the Permit is deemed to be modified and no further Board action is required.

Specifically, the applicant is requesting a modification to the Preliminary Architectural Plans in Exhibit A of the Permit. The applicant requests to reduce the number of bathrooms in the affordable units as follows:

- 1) 3 bedroom units - from 2 full and 1 half baths to 1 full and 1 half bath;
- 2) 4 bedroom units - from 2 full and 1 half baths to 2 full baths.

No other change or modification of the Permit or the approved plans are requested.

Summary:

The Applicant submitted five (5) different preliminary architectural plans to the ZBA as part of the application for the comprehensive permit. As part of the zoning process the applicant reviewed DHCD design and construction standards that related to affordable units.

The DHCD design and construction standards in Section 4.b.3. Units states that all low and moderate income units shall meet the following minimum square footage and bathroom requirements:

- 3 bedrooms – minimum square footage: 1200 SF/bathroom requirement: 1 and ½ baths
- 4 bedrooms – minimum square footage: 1400 SF/bathroom requirement: 2 baths

From November 16, 2017 to March 29, 2018, the applicant applied for and was issued thirteen (13) affordable building permits from the Town of Medfield. From January 2019 to November 2019, eight (8) certificates of occupancy were issued for affordable units. These units have subsequently closed and have residents living in them.

The building permits and occupancy permits of seven (7) of the constructed and sold affordable units are 3 bedroom units and have 1 and ½ baths. The building permit and occupancy permit of the eight unit that has been constructed and sold approved 4 bedroom unit with 2 full baths.

The applicant has yet to construct the remaining five (5) affordable units.

On December 5, 2019, the Medfield Building Inspector issued a Notice of Violation and Stop Work Order with respect to the five (5) unconstructed affordable units<sup>2</sup>. The Applicant submitted correspondence and an exhibit binder on December 18, 2019. *See attached binder and exhibit.* On December 19, 2019 the Building Inspector issued a follow up letter detailing the applicants process to commence work and lift the stop work order. The applicant agreed to the terms of this and submits this request for modification to comply with said December 19, 2019 letter.

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<sup>2</sup> With respect to the already constructed and moved in affordable units, the Building inspector in his letter of December 19, 2019 states that the “lottery applications and closing documents provided that the affordable winners were aware of and agreed to accept the units they were awarded “as-is.”

The Applicant requests the Board determine this modification to the Permit as an insubstantial modification as the requested modification does not make changes that materially affect the location of, increase the height of massing of the structures, or increase the number of units contained in the residential buildings as detailed in Section A.9 of the Permit. Further, in accordance with 760 CMR 56.05(11)(a), the Board's determination as to whether a change is substantial or insubstantial, those factors contained at Section 56.07(4) provide guidance. As stated in 56.07(4)(c), matters which generally are determined as substantial changes involve changes such as the increase in height of structures by more than 10%, an increase in the number of housing units by more than 10%, a reduction in the site by more than 10% in excess of decreased unit count; a change in building type and a change in housing tenure. Here, the project size, the unit count, the bedroom count are remain unchanged from what has been approved by the Permit. The sole change is a reduction in the number of bathrooms in the affordable units. This type of minor change to the architectural plans is not of the magnitude of the types of changes identified by the 40B Regulations as "substantial." Instead, as modification to the architectural plans is merely a minor design revision whereby the two-bedroom affordable units will have 1.5 bathrooms (consistent with DHCD Design Guidelines) and the three-bedroom affordable units will have 2 full bathrooms (also consistent with the DHCD Guidelines).

Throughout the public hearing process, the Board and Applicant had numerous discussions regarding bedroom counts for the units. The approved bedroom count is established by the Permit and there is no request to alter or adjust the Project's bedroom count. Instead, the notice of insubstantial change is confined to the number of bathrooms within the affordable units. With respect to this modification, it should be noted that the Applicant meets and exceeds the DHCD design and construction standards regarding unit size/bathroom count.

We thank you for your time and consideration of this request. Please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Larkin, Jr.", is written over a horizontal line. The signature is slanted and includes a large, stylized flourish.

Michael J. Larkin, Jr., Manager  
Country Estates of Medfield LLC



# TOWN OF MEDFIELD

Office of the  
BUILDING DEPARTMENT

Phone (508) 906-3005

Fax (508) 359- 6182

**Gary D Pelletier, CBO**  
**Building Commissioner/  
Zoning Enforcement Officer**

December 5, 2019

Mr. Michael Larkin  
Country Estates of Medfield, LLC  
PO BOX 129  
Medfield, MA02052

RE: NOTICE OF VIOLATION & STOP WORK ORDER, Medfield Zoning Board of Appeals,  
Comprehensive Permit #1300 4/6/2017

Dear Mr. Larkin

Recently an extensive administrative review of the on-going Chapel Hill Landing project was conducted by this office in concert with Sarah Raposa, Town Planner, and Kristine Trierweiler, Town Administrator, with regards to compliance with the ZBA decision conditions for the above referenced Comprehensive Permit. It has been determined that there are multiple violations of the conditions of the Comprehensive Permit #1300, 760 CMR 56.07(5), as well as violations of 780 CMR 51 relative to the Building Permits and Construction Documents for several of the properties in the development.

The zoning bylaw violations of the comprehensive permit are relative to Decision Conditions A.6 referencing the Approved Architectural Plans included in Exhibit A. Those referenced plans included 5 building types A, B, C, D, and E, all containing 3-4 Bedrooms, and all containing 2 full and 1 half bath(s). A review of building permits and occupancy certificates indicates that 7 completed units have only 1 full and 1 half bath, and another unit has only 2 full baths. Additionally, 5 more units, not yet completed, were permitted with only 1 full and 1 half bath.

This action constitutes a violation of condition A.6 as well as A.9 and 760 CMR 56.07 as a deviation/change from the "Approved Plans" without approval from the Building Commissioner or permit granting authority. Furthermore the units described as non-compliant with the approved plans are all units designated as "Affordable" units under the G.L. 40B Comprehensive Permit, and are inconsistent with the MCO Housing Services description of the units for the Affordable Unit Lottery. The DHCD and MassHousing have been contacted regarding the discrepancy. Medfield Zoning Bylaw Violations carry a penalty of \$300 per violation, and each day the violation continues, constitutes another violation.

The completed properties are as follows:

1 Stoneridge Way  
4 Stoneridge Way  
8 Stoneridge Way  
4 Sunset Way  
6 Sunset Way  
31 Sunset Way  
35 Sunset Way  
45 Sunset Way

The permitted but not yet completed properties are as follows.

11 Sunset Way, BP-18-95  
20 Sunset Way, BP-18-98  
24 Sunset Way, BP-18-99  
28 Sunset Way, BP-18-100 (attached to 30 Sunset Way BP-19-540)  
34 Sunset Way, BP-18-101 (attached to 36 Sunset Way BP-19-456)

The above listed building permits are hereby **SUSPENDED**, per 780 CMR 51 Section R105.6 until brought into compliance with the comprehensive permit "Approved Plans", and all other related conditions.

Work Completed at the following are in violation of 780 CMR 51 Section R107.4, Amended Construction Documents, and will result in a complaint filed against the applicants Construction Supervisors License for failure to file an amendment to the approved plans and gain approval from the Building Official for the proposed changes prior to making those changes.

1 Stoneridge Way BP-18-93  
4 Stoneridge Way BP-17-526  
31 Sunset Way BP-18-16

Given the serious nature of these violations I am hereby issuing a "STOP WORK ORDER" for Chapel Hill Landing, under 780 CMR 51, Section R115, which shall be subject to provisions and penalties for non-compliance under MGL.c.143 ss94(a). I further require that you provide a written response, and plan for remediation of the listed violations to this office as soon as possible. The STOP WORK ORDER, will remain in effect at least until the written remediation plan is submitted to this office. You are further directed to review the appeal provisions described in the applicable articles cited. Thank you in advance for your immediate attention to this important matter.

Respectfully,

  
Gary D Pelletier, CBO  
Building Commissioner  
Zoning Enforcement Officer

Cc: Town Counsel  
Town Administrator  
Town Planner  
MassHousing  
DHCD  
Legislative Delegation

MEDFIELD BUILDING DEPARTMENT  
**LEGAL NOTICE**

Date 12/5/2019

WHEREAS, VIOLATIONS OF:

**Article 780 CMR, 51:00 Section R107.4, 760 CMR 56.07 (5) and Medfield ZBA CP #1300**

Have been found on these premises, IT IS HEREBY ORDERED in accordance with the above Code that all persons cease, desist from, and

**STOP WORK**

At once pertaining to construction, alterations or repairs on these premises known as

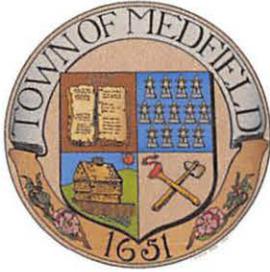
Chapel Hill Landing, Medfield MA

All persons acting contrary to this order or removing or mutilating this notice are liable to arrest unless such action is authorized by the Department. 508-906-3005

**DO NOT REMOVE THIS NOTICE, UNLESS AUTHORIZED BY BUILDING DEPT**

*Gary D Pelletier*

  
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BUILDING COMMISSIONER  
Gary D Pelletier, CBO



# TOWN OF MEDFIELD

*Office of the*  
**BUILDING DEPARTMENT**

Phone (508) 906-3005

Fax (508) 359-6182

**Gary D Pelletier, CBO**  
**Building Commissioner/  
Zoning Enforcement Officer**

December 19, 2019

John T. Smolak, Esq.  
Smolak & Vaughan LLP  
East Mill  
21 High Street, Suite 301  
North Andover, MA 01845

RE: NOTICE OF VIOLATION & STOP WORK ORDER, Medfield Zoning Board of Appeals,  
Comprehensive Permit #1300 4/6/2017

Dear Attorney Smolak:

The Building department has received and reviewed the correspondence and exhibit binder provided on 12/18/2019, and has conducted a thorough review of its contents. From the many documents and emails included it is clear that your clients made a conscious decision to modify the approved plans from Comprehensive Permit #1300, by reducing the number of bathrooms in the affordable units from 2 full and 1 half baths, (Exhibit A in the CP) to 1 full and 1 half baths, detailed in emails and marketing documents provided. It is further demonstrated by the included lottery applications and closing documents provided that the affordable winners were aware of and agreed to accept the units they were awarded "as is". Thank you for providing these clarifications.

Unfortunately your clients did not receive an approved modification from ZBA for the reduction of bathrooms, which is a clear deviation from the Approved Plans (Decision Condition A.6), nor did your client receive approval from any Building Commissioner, as a "minor or immaterial change" (Decision Condition A.9). Additionally your client, as evidenced by several emails included, violated Decision Condition A.13, by failing to copy the Building Commissioner on correspondence concerning any Comprehensive Permit decision condition. Lastly it is your client who is responsible to ensure that the Final Plans submitted for permitting conform to the Approved Plans (Decision Condition D.1.F).

As a result of the Violations of the Decision Conditions A.6, A.9, A.13 and D.1.F, I am suspending Building Permits Issued for the following:

11 Sunset Way, BP-18-95  
20 Sunset Way, BP-18-98  
24 Sunset Way, BP-18-99  
28 Sunset Way, BP-18-100 (attached to 30 Sunset Way BP-19-540)

The following will be restricted to being framed and made tight to the weather:

34 Sunset Way, BP-18-101 (attached to 36 Sunset Way BP-19-456)

The referenced restrictions will remain in place until such time as either full compliance with the conditions of Comprehensive Permit #1300 is achieved, or the Zoning Board of Appeals grants a modification of the “Approved Plans” related to the reduction in number of bathrooms in the affordable units.

Upon receipt by Medfield Building Dept. of your clients written acknowledgement and acceptance of these terms, I will lift the “Stop Work Order” dated 12/5/2019, and work may proceed on all other permits granted.

Respectfully,

Gary D Pelletier, CBO  
Building Commissioner  
Zoning Enforcement Officer

Cc: Town Counsel  
Town Administrator  
Town Planner  
MassHousing  
DHCD  
Legislative Delegation