



TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

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

MEETING OF:

April 5, 2022

MINUTES

Executive Session

Members Present: John J. McNicholas; Chairman; Jared Gustafson, Associate Member

Members Absent: Michael W. Whitcher, Member; William McNiff, Member; Charles Peck, Associate Member; Jared Spinelli, Associate Member

Staff Present: Sarah Raposa, Town Planner, Mark Cerel Town Counsel, Kristine Trierweiler

Board of Selectmen Present: Gus Murby, Eileen Murphy

Others Present: Attorney Jay Talerman

Location: Town House

At approximately 2:05 pm, Chair Jack McNicholas called the meeting to order.

Vote to enter Executive Session to discuss strategy with respect to pending litigation (Femino et al. v. Medfield Holdings LLC, Zoning Board of Appeals of the Town of Medfield, Town of Medfield, et al.)

Chair McNicholas stated that Zoning Board of Appeals needs to meet in executive session to discuss strategy with respect to pending litigation (Femino et al. v. Medfield Holdings LLC, Zoning Board of Appeals of the Town of Medfield, Town of Medfield, et al.) and declared that an open meeting would have a detrimental effect on the litigating position of the Zoning Board of Appeals. The open session will not reconvene at the conclusion of the executive session.

Jared Gustafson moved for the Zoning Board of Appeals to enter executive session to discuss strategy with respect to pending litigation (Femino et al. v. Medfield Holdings LLC, Zoning Board of Appeals of the Town of Medfield, Town of Medfield, et al.) and that the Chair has declared that an open meeting would have a detrimental effect on the litigating position of the Board of Selectmen. The open session will not reconvene at the conclusion of the executive session. Seconded by Mr. McNicholas. Roll Call Vote: JG=yes; JM=yes (2-0)

Mr. McNicholas queried if the Boards should have separate counsels. Atty. Cerel and Atty. Talerman summarized the interests of the ZBA and the BoS. They described the process and indicated that the ZBA may not have that active of a role as the Town Meeting and BoS process is a strong component of the case, which covers the ZBA's interest. Atty. Talerman explained that the ZBA is named as an instrumentality of the Town and the interests are aligned for now. Until such time that there is a divergent interest, then it is ok the represent both boards. The group discussed the de novo aspect of the judicial review. Atty. Cerel and Atty. Talerman described the issues of standing, injury, superior court versus land court, and the land court permit session. It

was made clear that some issues (such as ethics and open meeting law complaints) are separate. The next steps are to move the case to land court, discovery, and interrogatory request. Atty. Talerman will keep us briefed as the process moves along.

At approximately 3:14 pm, Mr. Gustafson made a motion to close the executive session and adjourn the meeting. Seconded by Mr. McNicholas. Roll Call Vote: JG=yes; JM=yes (2-0)

Respectfully Submitted,

Sarah Raposa, Town Planner