August 12, 2025
88 Plain St.
Medfield, MA 02052

Zoning Board of Appeals
459 Main St.
Medfield, MA 02052

Dear Chairman,

In as much as we only received the responses by the developer and Tetra Tech, there is insufficient time to review and comment by this 8/13/25 meeting as it relates to the proposed driveway. We do however have one question. The driveway has changed again and is now one 20' wide driveway. That being the case, does it change the "site distance" calculations on previous reports?

To follow up on the last public hearing, 7/14/25:

- The attorney (Guard) and the rep from Merrill both said something to the effect that the vernal pool boundary ends at the edge of the vegetated wetlands boundary line. I would ask that they site the regulation that supports that statement. I spoke with the Massachusetts DEP for our region and spoke to their representative and asked for their interpretation of the regulations. The DEP sited CMR 10.04 Definitions:

Vernal Pool Habitat means confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations, as well as the area within 100 feet of the mean annual boundaries of such depressions, to the extent that such habitat is within an Area Subject to Protection under M.G.L. c. 131, § 40 as specified in 310 CMR 10.02(1). These areas are essential breeding habitat, and provide other extremely important wildlife habitat functions during non breeding season as well, for a variety of amphibian species such as wood frog (Rana sylvatica) and the spotted salamander (Ambystoma macultum), and are important habitat for other wildlife species.

The DEP also cited CMR 10.57 (2)(a)(6):

6. The boundary of vernal pool habitat is that certified by the Massachusetts Division of Fisheries and Wildlife. In the event of a conflict of opinion, or the lack of a clear boundary delineation certified by the Division of Fisheries and Wildlife, the applicant may submit an opinion certified by a registered professional engineer, supported by engineering calculations, as to the probable extent of said habitat. Said calculations shall

be prepared in accordance with the general requirements set forth in 310 CMR 10.57(2)(a)3.a. through c., except that the maximum extent of said water shall be based upon the total volume (rather than peak rate) of run-off from the drainage area contributing to the vernal pool and shall be further based upon a design storm of 2 /10 6 (2.6) inches (rather than seven inches) of precipitation in 24 hours. Vernal pool habitat shall include the area within 100 feet of the boundary of the vernal pool

We are not experts and do not portend to be. However, in a public meeting, when an expert is making statements, it would be helpful if they were accurate since the ZBA, abutters and any other interested parties are relying on this information to make thoughtful decisions about whether, or not, this proposed project raises our local concerns and whether they are sufficient to overcome the regional need for affordable housing.

We would also be interested in understanding the process by which our Conservation Commission, who is acting as the Issuing Authority of the MA Wetlands Protection Act (WPA), and is evaluating the proposal and whether this proposal complies with the requirements of the WPA. If they find it does not, what is the process by which those concerns are considered, and by whom?

Also, in CMR 10.03 General Provisions:

10.03: General Provisions
(1) Burden of Proof.
(a) Any person who files a Notice of Intent to perform any work within an Area Subject to Protection under M.G.L. c. 131, § 40 or within the Buffer Zone has the burden of demonstrating to the issuing authority:
1. that the area is not significant to the protection of any of the interests identified in M.G.L. c. 131, § 40; or
2. that the proposed work within a resource area will contribute to the protection of the interests identified in M.G.L. c. 131, § 40 by complying with the general performance standards established by 310 CMR 10.00 for that area.

We would ask Attorney Haverty to define "contribute to the protection". Does this mean that any proposed work has to "increase" the protection of this resource area?

Does removal of trees and existing of ground cover, the additions of impervious surfaces (driveway and sidewalk) and the introduction of artificial light "contribute to the protection" of this resource area?

Lastly, in the WPA, MGL Chapter 131, Section 40, it states:

[30] Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this section or in violation of any order issued under this section shall forthwith comply with any such order or restore such real estate to its condition prior to any such violation; provided, however, that no

action, civil or criminal, shall be brought against such person unless such action is commenced within three years following the recording of the deed or the date of the -16-death by which such real estate was acquired by such person. Any court having equity jurisdiction may restrain a violation of this section and enter such orders as it deems necessary to remedy such violation, upon the petition of the attorney general, the commissioner, a city or town, an owner or occupant of property which may be affected by said removal, filling, dredging or altering, or ten residents of the commonwealth under the provisions of section seven A of chapter two hundred and fourteen.

We have asked this question before and want to raise it again. The previous owner installed the asphalt driveway without contacting the conservation commission or any other town dept. The file for 86 Plain St was reviewed and there is no evidence that there was ever a Letter of Intent. That being the case, why can we not consider having the original dirt/gravel driveway to be restored to its original condition? Who has to bring the action and to whom?

Very truly yours,

Michael & Susan Weiner