

**Town of Medway  
Zoning Board of Appeals Meeting  
Sanford Hall, Medway Town Hall  
155 Village St, Medway MA**

**MINUTES OF MEETING**

**May 18, 2016**

**Present:** Chairman David Cole; Clerk Carol Gould; Committee Members: Eric Arbeene and Brian White; and Associate Member Rori Stumpf.

**Also Present:** Stephanie Mercandetti Director, Community and Economic Development.

David Cole, Chairman, called the meeting to order at 7:34 PM.

**Approval of minutes:**

No changes were suggested by the Board to the draft meeting minutes for April 20, 2016.

***A motion to accept the Minutes of the April 20, 2016 meeting was made by Mr. White, seconded by Ms. Gould and approved unanimously.***

No changes were suggested by the Board to the draft meeting minutes for May 4, 2016.

***A motion to accept the Minutes of the May 4, 2016 meeting was made by Mr. White, seconded by Ms. Gould and approved unanimously.***

**Upcoming meeting:**

The next meeting of the Board will be June 1, 2016; the continued public hearing for Timber Crest Estates.

**Correspondence:**

None.

**Citizen comments:**

There were no members of the public that wished to make comments on items other than those already on the agenda.

**Public Hearings:**

**7:45 P.M. - The Applicant, Darlene Burke, seeks a Special Permit under Section 5.4 of the Zoning Bylaw to request a Kennel License for 5 dogs, pets only, on the property located at 1 Wildwood Road, Medway, MA**

The Board is in receipt of the following documents:

- Special Permit Application stamped by the Town Clerk on April 5, 2016
- Plot Plan provided by the applicant, Ms. Darlene Burke, received on April 8, 2016

The Board moved to hear the application. The applicant, Darlene Burke, and her husband, Edward Burke, were present to discuss their request with the Board.

Ms. Burke explained that she is seeking a kennel permit for 5 dogs, all spayed or neutered, and assured the Board that absolutely no breeding or commercial activity will take place on the premises. Chairman Cole asked about the size of the property and the applicant indicated that the home sits on a little over an acre of land, their yard is completely fenced in, and the yard itself is about ½ acre. Chairman Cole also asked if any input had been received from Animal Control and the applicant responded that Animal Control has not presented any issues and that no complaints from neighbors have been reported. When asked about the size of the dogs that will be kept on the property, Ms. Burke noted that they have 2 Labrador Retrievers (70-80 lbs. each) and 3 Cocker Spaniels (25-30 lbs. each). Chairman Cole asked whether the dogs would ever be left outside unattended and if the dogs would go inside at night. The applicant indicated that the dogs would be supervised at all times while outside and be taken indoors at night. Additionally, the applicant also noted that there is an invisible fence around the entire property as an added security measure.

Ms. Mercandetti noted that no departments have sent any communications in regard to this Special Permit, and that the animal control officer posed no objections.

Chairman Cole asked if any person present had any questions or comments in regard to this application.

Susan Sebilian of 30 Stanley Road (diagonally behind the applicant) stated that the applicants are extremely responsible dog owners and was in favor of their kennel request.

***A motion to close the hearing was made by Mr. Arbeene, seconded by Mr. White and approved unanimously.***

The Board moved to deliberate on the Special Permit Application submitted by Darlene Burke.

Mr. Stumpf indicated that he was inclined to vote in favor of approving the request as he saw no reason that the kennel will be detrimental to neighbors, the dogs will mostly be kept indoors and fences are installed on the property. Mr. White and Mr. Arbeene also expressed their support.

***Chairman Cole moved to find that the applicant testified that the subject lot comprises approximately 1 acre and is equipped with suitable facilities for accommodating dogs, namely a fully fenced in backyard and invisible fence around the property. Mr. White seconded and it was passed unanimously.***

***Chairman Cole moved to find that the applicant testified that no complaints regarding noise from the dogs have been received and that no objections had been raised by the Animal Control Officer or any other town authority, and it is further noted that one of the neighbors testified in favor of the application. Mr. White seconded and it was passed unanimously.***

***Chairman Cole moved to find that the applicant stated that they do not intend to increase number of dogs beyond the existing 5 and that the dogs are exclusively household pets and no breeding or commercial activity will occur in connection with the dogs. Mr. Arbeene seconded and it was passed unanimously.***

***In view of the foregoing findings, Chairman Cole moved to grant to the applicant, Darlene Burke, a kennel license for 5 dogs on the property at 1 Wildwood Road, Medway subject to the following terms and conditions:***

- ***There shall be no breeding or other commercial activity in connection with the kennel permit; and***
- ***The dogs shall not be left outside when no person is present on the premises.***

***The motion was seconded by Mr. White and passed unanimously.***

***Special Permit granted.***

**8:00 P.M. - The Applicant, R. Eric Uhe, seeks a Special Permit under Section 8.2 of the Zoning Bylaw to construct an accessory family dwelling unit within the existing home on the property located at 17 Juniper Road, Medway, MA**

The Board is in receipt of the following documents:

- Special Permit Application stamped by the Town Clerk on April 6, 2016
- Mortgage Inspection Plan for 17 Juniper Road, dated July 28, 2014, prepared by Northern Associates, Inc. and received with the application
- Drawing of proposed project provided by the applicant
- Email from Fire Department Chief Jeff Lynch, received April 19, 2016

The Board moved to hear the application. The applicant, Mr. Uhe, was present to discuss his request with the Board.

Mr. Uhe explained that he is looking to build an in-law apartment in his basement for his aging mother who currently lives alone and is in need of care. Chairman Cole noted that the home would not be able to be advertised as a two-family home at resale. Chairman Cole asked for clarification on the size of the area where the in-law apartment would be built, means of

egress, as well as parking. The applicant indicated that the basement is approximately 1000 feet<sup>2</sup> (excluding the mechanical area), his mother's apartment would be 700-800 feet<sup>2</sup>, and the remaining area would be used as a playroom for the kids. For means of egress, it is a full walkout basement and a door will be added. There is also a stairwell up to the main floor. The applicant also noted that there is ample room in the driveway for an additional vehicle.

Chairman Cole asked if any person present had any questions or comments in regard to this application. No questions or comments were voiced.

Ms. Mercandetti noted that an email was received from Fire Chief Lynch who wants to ensure that proper smoke and CO detectors are installed and are interconnected with the existing system at 17 Juniper Road. Chairman Cole explained that an occupancy permit would not be granted upon inspection without smoke and CO detectors.

***A motion to close the hearing was made by Mr. Arbeene, seconded by Mr. White and approved unanimously.***

The Board moved to deliberate on the Special Permit Application submitted by Mr. Uhe.

Chairman Cole stated that the person for whom the apartment is being built is a qualified person and the plans provided show adequate accommodations. Mr. White noted that the proposal meets the unit size, bedroom and parking requirements set forth in the bylaw. It was added that there seems to be no objections from neighbors. Also, the only comment received from another town department is routine and will be addressed by the building inspector prior to issuance of an occupancy permit.

***Mr. White moved to find that the applicant's design criteria meets maximum permitted number of bedrooms. Chairman Cole seconded and it was passed unanimously.***

***Mr. White moved to find that the application contains at least one off-street parking space as required. Chairman Cole seconded and it was passed unanimously.***

***Mr. White moved to find that the applicant has designated an eligible occupant. Chairman Cole seconded and it was passed unanimously.***

***Mr. White moved to find that the plans as submitted preserve the appearance of a single family dwelling. Chairman Cole seconded and it was passed unanimously.***

***Chairman Cole moved to find that the grant of the requested permit for an accessory family dwelling unit does not contravene any of the criteria for a special permit in Section 3.4 of the Zoning Bylaw. Mr. White seconded and it was passed unanimously.***

***In view of the foregoing findings of fact, Chairman Cole moved to grant to the applicant of 17 Juniper Road, Medway a Special Permit for an accessory family dwelling unit at the property substantially in accordance with plans submitted. Mr. White seconded and it was passed unanimously.***

***Special Permit granted.***

**8:15 P.M. – (Continued from April 6, 2016)** The Applicant, Steve Linnell, for a Special Permit under Section 8.3 of the Zoning Bylaw to allow for a construction business to operate on the property located at 180 Main Street, Medway [This petition has been requested to be withdrawn]

The Board is in receipt of a letter from Mr. Linnell formally requesting to withdraw his application for a Special Permit under Section 8.3.

***Chairman Cole moved to allow Mr. Linnell to withdraw his application without prejudice. Mr. White seconded and it was passed unanimously.***

**Deliberations**

The Board moved to deliberate on the application for Steven and Susan Houde of 184 Main Street, seeking a Variance from Section 6.1 of the Zoning Bylaw.

Mr. Stumpf stated that he was inclined to vote in favor of the applicant's request as the applicant has demonstrated that there are problems associated with the topography of the driveway and safety is currently a concern to cars exiting the property. The proposed project will allow for cars to easily turn around before exiting the driveway and the setback is not out of character with the rest of the neighborhood. Mr. Arbeene, Mr. White and Ms. Gould are also in agreement.

***Chairman Cole moved to find that the applicants demonstrated conditions of topography which especially apply to the subject lot and do not generally apply to land in the same zoning district, namely the steep slope from the site of proposed garage down towards Main Street and further, that the heavy traffic on Main Street poses a safety hazard in reversing cars into traffic, and that this safety hazard will be alleviated by the construction of the proposed garage which will enable vehicles to turn around and exit onto Main Street facing forward. Mr. White seconded and it was approved unanimously.***

***Chairman Cole moved to find that the grant of the requested relief would not be contrary to the public good in as much as there are numerous lots in the immediate neighborhood having side setbacks as low as the approximate 8 feet requested. Mr. White seconded and it was approved unanimously.***

***Chairman Cole moved to find that having regard to considerations of topography and location of the existing dwelling on the lot, coupled with the need to use the existing driveway for turning vehicles as aforesaid, the proposed location of the garage is essentially the only practicable location for the garage on the subject lot. Mr. White seconded and it was approved unanimously.***

***In view of the foregoing findings, Chairman Cole moves to grant to the applicant the request for a Variance for the construction of a garage on the subject lot substantially in accordance***

***with the plans submitted with the reduction of the side setback from 15 to 8 feet. Mr. White seconded and it was approved unanimously.***

***Variance granted.***

**Any other business**

- Discussion of peer review fee estimates for Timber Crest Estates

The Board is in receipt of the following:

- Memo from Stephanie Mercandetti detailing filing fees paid by Timber Crest Estates and comparison of other Town application fees
- Estimate from Tetra Tech for engineering peer review
- Email from Paul Cusson regarding receipt of estimate from Tetra Tech, received May 17, 2016

Stephanie Mercandetti noted that Timber Crest Estates has paid a Comprehensive Permit filing fee of \$33,200. It is up to the Board to decide what portion of that money will be retained by the Town and what portion will be allocated towards peer review services (with any additional peer review service fees being paid by the developer). Ms. Mercandetti summarized that the scope of the peer review by Tetra Tech includes site visits, plan/report review, review of the Stormwater Management Report, review of the Traffic Impact Study, preparation of a letter summarizing findings for presentation to the Town of Medway, coordinating with applicant to address items in any review letter and issue an updated letter upon receipt of modifications, and meeting attendance. The total cost of the estimate is \$24,550. Ms. Mercandetti proceeded to note that the developer's consultant has also received a copy of the estimate and an email from Mr. Cusson stated that they have no objections to having Tetra Tech do the peer review. Mr. Cusson did note that the traffic review budget appeared to be high, but Stephanie explained that the prices included in the quote are simply estimates.

Chairman Cole explained that when the fees were established, the plan was to have a portion of the amount used to pay for technical services. He proposes that \$15,000 of the \$33,200 already paid by the developer be retained by the Town, leaving \$18,200 to put toward the peer review. This leaves a remaining \$6,350 to be paid by the developer for the peer review costs.

Ms. Mercandetti requests that the Board vote to accept the proposal by Tetra Tech and to determine what amount of the developer's filing fees will be retained and what portion will be deposited into a revolving account to be used for technical services.

***Chairman Cole moved to authorize Stephanie Mercandetti, Director, Community & Economic Development, to accept estimate by Tetra Tech for peer review in relation with technical services for Timber Crest Estates. Mr. White seconded and it was approved unanimously.***

***Chairman Cole moved that the town retain \$15,000 of the filing fee of \$33,200 paid by the applicant in connection with the Timber Crest Estates 40B application, with balance of***

***\$18,200 being deposited in a revolving fund available for use in procuring technical services in connection with the application. Mr. White seconded and it was approved unanimously.***

**Adjournment**

***A motion to adjourn was made by Mr. Arbeene, seconded by Mr. White and passed unanimously. The Board adjourned at 8:54 p.m.***

Respectfully submitted,

Filipa LeClair  
Meeting Recording Secretary