

Board Members
Rori Stumpf, Chair
Brian White, Vice Chair
Gibb Phenegar, Clerk
Christina Oster, Member
Tom Emero, Member
Carol Gould, Associate Member



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TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

Wednesday, May 19, 2021 at 7:30 p.m.

Virtual Meeting

Meeting Minutes

Members Present (virtually): Brian White, Vice Chair; Gibb Phenegar, Member; Tom Emero, Member; Christina Oster, Member

Members Absent: Rori Stumpf, Chair; Carol Gould, Associate Member

Also Present (virtually): Barbara Saint Andre, Director, Community and Economic Development
Morgan Harris, Administrative Assistant, Community and Economic Development

Call to Order

Mr. White called the meeting to order at 7:30 p.m. and read that this meeting is being broadcast and recorded by Medway Cable Access. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor's Orders imposing strict limitations on the number of people that may gather in one place, no in-person attendance of members of the public will be permitted at this meeting. Board members will be participating remotely. For public hearings, access via Zoom is provided for the required opportunity for public participation. Information for participating via Zoom is posted at the end of the ZBA Agenda on the town website. He then read instructions on how to participate in the meeting. All persons participated remotely in the meeting via Zoom. Mr. White introduced all Board members participating remotely in the meeting.

Public Hearing

28 Milford Street - The application is for the issuance of a **special permit** under Section 5.5 of the Zoning Bylaw to demolish the existing nonconforming one-family structure and reconstruct a new one-family structure, and for a **special permit** under Section 8.2 for an Accessory Family Dwelling Unit (AFDU) within the new structure.

The applicants, Mr. and Ms. Boczanowski, were present and explained the application. The applicants own two abutting properties, 28 Milford Street and an abutting lot in the back that has no frontage, that have been combined into one lot by deed recorded at the Norfolk County Registry of Deeds at Book 39375, page 37. Currently, there is a small single-family house and two sheds on the lot, all located near Milford Street. The applicants intend to remove the existing house and the sheds and build a new, larger single-family home with an Accessory Family Dwelling Unit. The new house will conform to all setback and height requirements in the zoning by-law.

Mr. Boczanowski explained that there is plenty of room behind the current house for a new house to be built, and the new house will be much better placed on the lot. The old house will also be demolished

before an occupancy permit for the new house is issued. Mr. White asked the applicant to speak more to the existing setbacks vs what the planned setbacks will be. Mr. Boczanowski stated that the house will be beyond 15 feet from all lot lines. It will be 30 feet by 40 feet with a garage attached through a breezeway. The old house is 7 feet from the side lot line. The new house will be 16.6 feet from the lot line at the closest point. The house also is currently 60 feet from the road and the lot has 80 feet of frontage. Mr. Boczanowski also clarified that the two sheds on the property will also be torn down, but they hope to reuse the septic system. He also would like a special permit for an AFDU above the garage. Mr. Boczanowski stated that this AFDU would be occupied by his mother and would be less than 800 square feet.

Mr. Phenegar summarized that there were two decisions to be made: one regarding the nonconforming structure and one regarding the AFDU. He stated that the new house would meet the setbacks, and that the design would not derogate the neighborhood but improve it. Mr. Boczanowski pointed out the number of new houses recently built in the neighborhood. Ms. Oster added that the area has recently improved from being an eyesore, with Mr. White agreeing that the design will fit nicely with the location. Mr. White then asked for public comment, of which there was none. The Board began to deliberate on the criteria for the special permit and AFDU. Ms. Saint Andre clarified that the Board would first need to determine whether the proposed structure would increase the nonconformity. The Board agreed that the nonconformity will not be increased and that the proposed structure is entirely appropriate for the area.

Motion to find that the proposed reconstruction will not increase the nonconforming nature of the pre-existing nonconforming single-family structure made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye

Gibb Phenegar - Aye

Christina Oster – Aye

Brian White – Aye

The Board then began to discuss the AFDU. Mr. Phenegar noted that it was nice to see an AFDU that meets the Zoning requirements of being under 800 square feet. He also stated that the design conforms with the rest of the house. Ms. Oster stated that it was beautifully structured and looks like a single-family home from the front. Mr. Phenegar stated that having an AFDU fits well with the neighborhood, there were no abutters comments, no added traffic, no detrimental lighting or odor, and that the AFDU fits with the purpose of the Zoning Bylaw and the Master Plan. Ms. Saint Andre noted that if the two lots have not been combined, the house will not meet setback requirements. Mr. Boczanowski clarified that they just received the new deed after a mix-up with filing last year and confirmed the book and page number. Mr. Emero asked if this was a merger or two nonconforming lots to create a lot that is still nonconforming. Ms. Saint Andre confirmed that they were both nonconforming because the back lot has no frontage.

Mr. Emero had suggestions to add to the boilerplate conditions, including that the sheds be torn down before occupancy and that the lots be combined prior to a building permit being issued.

Mr. White then discussed the special permit criteria with the Board.

Motion that the Applicant has met all of the required special permit decision criteria made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye

Gibb Phenegar - Aye
Christina Oster – Aye
Brian White – Aye

Ms. Saint Andre explained the boilerplate conditions to the applicant and reiterated Mr. Emero's suggested conditions. Mr. Emero asked where the applicants will be staying since the old house will be torn down before the occupancy permit for the new house is issued. Mr. Boczanowski stated that they will be staying with his father for a few weeks while the house is being demolished, the driveway is being put in, and the septic is being reworked. He also pointed out that the driveway will be going through where the existing house is located.

Motion to grant the special permit for an Accessory Family Dwelling Unit made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye
Gibb Phenegar - Aye
Christina Oster – Aye
Brian White – Aye

Motion to close the public hearing for 28 Milford Street made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye
Gibb Phenegar - Aye
Christina Oster – Aye
Brian White – Aye

Other Business

There was discussion regarding Timber Crest Estates with relation to a request for additional lot releases, surety amount increase, combining phases, and additional house designs. Mounir Tayara, the developer for Timber Crest and Kingsbury Village, was present and explained what he hopes to do. The current phase has twelve lots, with ten foundations in and the other two to follow next week. Seven houses are framed and two more will begin next week as well. He pulled up a document to show which lots have already been released. Mr. Tayara explained that these houses are all under phase 1W, and that he wants to put up surety for release of lots in phase 1WB. He stated that the bond price provided by Tetra Tech was acceptable to him if the Board agreed. Ms. Saint Andre reminded the Board that Mr. Tayara could come before the Board periodically to ask for lot releases.

Motion to approve the agreement for deposit of money for Timber Crest Estates phase 1WB and to approve the release of lots 10, 11, 12, 13, 58, 59, 60, 61, 62, 63, 64, 65, 66 and 67 from the amended covenant recorded at registry book 37846 page 169 conditioned upon the receipt of the amount of \$245,633 of surety and fully executed agreement from the applicant, made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye
Gibb Phenegar - Aye
Christina Oster – Aye
Brian White – Aye

Mr. Tayara then explained that he wanted to informally discuss a few items, including proposing modifications to the comprehensive permit to allow him to start phase 2W of development. The decision prohibits starting another phase until 50% of homes in the phase under construction are completed. Mr. Tayara stated that he would like to change the word “completed” to “started”. He would like to start infrastructure work during the summer when the water table is at its lowest because it will be cleaner environmentally. Mr. Tayara again brought up the plans for Timber Crest Estates to show that sewer had to be brought up from Ohlson Circle through the streets that are in phases 2W and 3W. Since the infrastructure has already been brought through these streets, Mr. Tayara would like to start working on bringing the infrastructure to the house locations in these areas. He stated that he would also like to combine phases 2W and 3W into phase 2W. Mr. Tayara shared an aerial photo of the project site as it looks now. He stated that bringing the infrastructure up through the area for phase 2W was within the limit of work for phase 1W. Because the main infrastructure is already in place, except for one cul-de-sac, these streets are almost ready to be paved.

Ms. Saint Andre was asked if the Board was allowed to vote on this issue. She clarified that this was an informal discussion, and that Mr. Tayara would need to come before the Board with a request to modify the comprehensive permit. Ms. Saint Andre had suggested Mr. Tayara meet with the Board because the procedure for a modification does not allow for much give-and-take. The applicant would send a letter requesting the modification and the Board would have 20 days to determine if the change is deemed substantial or not. If it is, there would have to be a Public Hearing. Mr. Tayara stated that he was here for input from the Board to see if they had any suggestions. He noted that he would not be asking for an increase in allowable annual sales, and that the changes would be logistical more than anything. He stated that because they have a waiting list of buyers, he would like to start the next phase as soon as possible. Mr. Tayara clarified that he would not start building the houses for phase 2W until at least the fall but wants to put the drainage structures in place.

Mr. Tayara went on to discuss another potential modification regarding condition 41 in the covenant. He stated that he would like to change the condition from allowing work to start on the next phase once 50% of the homes in the first phase are completed to 50% of the homes being started. Mr. Tayara added that he did not want to get stuck on semantics and thought the definition of “completed” could be interpreted differently. Ms. Saint Andre clarified that condition 41 states that no more than two phases can be under construction at a time and the next phase cannot start until 50% of the first phase is completed. She felt that completed meant that an occupancy permit had been issued. Mr. White recapped the conditions as he remembered them. He stated that completion meant that a certificate of occupancy had been issued. He noted that the conditions relating to phasing were to prevent long, unfinished roads that were impossible to tame. Since Mr. Tayara had no choice but to put the road in to add the infrastructure, the phasing requirements have no purpose. Mr. White also stated that if this change helps Mr. Tayara to stay out of the wetlands at a better time of year, he thinks it is a good idea. He noted that the issue of wetlands was very important to the neighbors and was the intent of the phasing, but it is now a moot point. Mr. White stated that everything Mr. Tayara was asking for makes sense with regard to previous choices that were made by the Board, and he will go through his notes to get a better recollection of the reasoning. He clarified that the phasing was to get a handle on protected areas, but connections had to go through these areas for construction on phase 1W.

Sean MacEvoy of 31 Fairway Lane stated his opposition to the changes. He stated that he and other neighbors were present at many ZBA meetings while the conditions were being negotiated. From his

perspective, the issue of phasing was to prevent an area with houses half-built and abandoned in case the development went south. He acknowledged that the road is already in, but the problem would be the half-built houses. He also noted that they always knew the sewer would need to come from Ohlson Circle. Mr. White reiterated that they did not want derelict buildings, but the larger impact for extending the roads was to prevent cutting into the environment without need. He also stated that there was a question of how much road would be done. The Board did not think the issue through fully and envisioned that a trench would be put in for utilities. Mr. White stated that the overhead photo of what has been done is very impactful. He acknowledged that while half-done buildings were a piece of the reasoning, the bigger piece was environmental. Mr. MacEvoy noted that the foundations may have been a small piece, but they are still a piece and were exhaustingly negotiated. Mr. White said that his feeling was that overall, for this particular project, the most concern was for the impact on the environment and wetlands. He stated that the Board could possibly add conditions for Mr. Tayara to just start the infrastructure and not foundations.

Mr. Tayara clarified that he cannot start the second phase until 50% of houses in the first phase are completed. He does not want to start building homes, just to start and finish the infrastructure before the fall. When asked what specifically he wants to do, Mr. Tayara stated that he wants to put drainage, water, and sewer into place within the approved limit of work. He also stated that phase 3W would just be a cul-de-sac. Mr. Phenegar asked if it would just be the utilities to the lots and the road and not foundations. Mr. Tayara clarified that the infrastructure would be brought to the location of the future foundation, but no foundation would be put in yet. He also stated that he has no issue with waiting to start construction until 50% of the homes in phase 1 have been issued a certificate of occupancy, and he just wants to start the infrastructure. The Board discussed adding a condition to allow for only infrastructure to be started, with Mr. White noting that Mr. Tayara could word the request to not mention phasing, but to instead request to specifically finish to a certain point with infrastructure to be done outside the phasing section of construction. Mr. Tayara summarized that in his letter he will have to present to the Board, he can ask to amend the start of infrastructure for phase 2W prior to 50% completion for phase 1W, with no homes to be constructed for phase 2W until 50% are complete in phase 1W as stated in the prior decision by the Board.

Mr. Tayara then went on to share potential house plans to be added to the approved architectural designs. Mr. Tayara brought up the designs for new houses, "The Lee" and "The Stowe" as well as affordable versions of each design. Mr. White asked if the affordable house will also have new designs. Mr. Tayara clarified that the shape of the lot determines the house design. A house closer to wetlands might have a less deep design, for example. He stated that there is not one model for the affordable houses, and that lot dimensions play a role in determining which style to use. Mr. White asked specific questions regarding the design of "The Stowe", in particular whether plumbing will be in place for a second-floor master bath in the affordable units. Mr. Tayara stated that the whole bathroom is not on the affordable plan. The house will look similar from the outside but will be different inside. As an example, he stated that "The Lee" affordable design has no fireplace, no mudroom bench, and only one bathroom upstairs. He noted that buyers could add a bathroom later if desired since there was space for it.

When asked if adding designs would be a modification, Ms. Saint Andre said that it would be, and that there was a previous modification to lower the design numbers from 18 to 15. She suggested Mr. Tayara request two separate modifications since they are very different requests. There was further discussion

surrounding the 15 original designs, with the board deciding to review the plans. Mr. Tayara stated that he will file 2 amendments with the Board, taking into consideration the discussion at this meeting.

There was discussion surrounding the lifting of COVID restrictions with regards to in-person meetings. Ms. Saint Andre stated that restrictions will be lifted after May 29th and the state of emergency will end on June 15th. Because of this, all meetings from June moving forward will be in person, with the exception of the June 2nd meeting as it was already advertised. The June 16th meeting will be in person in Sanford Hall.

Approval of Minutes

- April 21, 2021

Motion to approve the minutes for April 21, 2021 as presented made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye

Christina Oster – Aye

Brian White – Aye

Gibb Phenegar - Aye

Upcoming Meetings

- June 2, 2021
- June 16, 2021

Adjournment

Motion to adjourn the meeting at 8:59 p.m. made by Gibb Phenegar, seconded Christina Oster, passed by a roll call vote of: 4-0

Tom Emero – Aye

Gibb Phenegar - Aye

Christina Oster – Aye

Brian White – Aye

Respectfully submitted,

Morgan Harris

Administrative Assistant

Community and Economic Development

Edited by

Barbara J. Saint Andre

Director, Community and Economic Development