

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



Medway Town Hall  
155 Village Street  
Medway, MA 02053  
Telephone (508) 321-4890  
[zoning@townofmedway.org](mailto:zoning@townofmedway.org)

# TOWN OF MEDWAY

## COMMONWEALTH OF MASSACHUSETTS

### ZONING BOARD OF APPEALS

**Wednesday, April 1, 2020 at 7:30 p.m.**

**Sanford Hall – Virtual Meeting**

**155 Village Street Medway, MA**

#### **Meeting Minutes**

**Remotely Present:** Rori Stumpf, Chairman; Brian White, Vice Chair; Gibb Phenegar, Member, Christina Oster, Member; Tom Emero, Member

**Also Remotely Present:** Barbara Saint Andre, Director, Community and Economic Development  
Stefany Ohannesian, Administrative Assistant, Community and Economic Development

#### **Call to Order**

Chairman Rori Stumpf called the meeting to order at 7:30 p.m. and read that the meeting was 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 March 15, 2020 Order 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 and on your screen. On the Town website, go to the Town calendar and click on tonight's meeting, where you will find the Zoom link. If you need any assistance in connecting to the meeting, please call us at (508) 321-4890 or email us at [zoning@townofmedway.org](mailto:zoning@townofmedway.org).

**Use the link from your computer or smartphone. Non-Board members will be muted upon entry. Applicants will be recognized when their hearing is called. Please use the Chat section and Hand Raise function to participate. You may also use any of the phone-in numbers listed. Unmute your telephone only if you wish to speak when the Chair allows public comment.**

#### **Public Hearings**

**83 Lovering Street (continued from March 18, 2020)-** The application is for the issuance of a **special permit** under Section 5.4, Table 1.C of the Zoning Bylaw to convert a single family home into a two-family house that has the exterior appearance of a single family dwelling on the lot.

Mr. Larkin was present and stated that he was able to talk to Mr. D'Amico briefly and stated that he wanted the applicant to submit some language on their request for Mr. D'Amico to review. He stated that he would like to continue the public hearing and thinks that the next meeting on April 15, 2020 would be acceptable.

**Motion to continue the hearing for 83 Lovering Street to April 15 at 7:30 p.m. at Sanford Hall made by Brian White, seconded by Gibb Phenegar passed with a vote of 5-0 with a roll call vote:**

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

**123 Holliston Street (Medway VFW)** - The application is for the issuance of a **special permit** under Section 5.5 of the Zoning Bylaw for the extension of a Non-Conforming Use to allow three small businesses to continue operation from the location, and to allow a fourth business to begin operation.

John Larney, the applicant stated that the VFW had 4 food business leases until recently, when it lost one of the leases (Bossy's Catering). The VFW is looking to add a proposed fourth food business (the Lobster Hub), which is a food truck, to bring them back up to four leases. There will be no retail sales at the VFW, just food preparation and storage for the businesses. These business leases contribute to the continued operation of the VFW.

Mr. Phenegar stated that due to the businesses operating already out of this location, this will just be formalizing another business which will not exceed four. No other Board members had comments.

Mr. Stumpf inquired whether the food trucks have designated parking spots, Mr. Larney stated that yes, there are certain spots for the trucks. Mr. Stumpf then inquired about the generator on the property, and Mr. Larney stated that it belongs to the town with ongoing discussion of it being removed soon.

Todd Nelson of 6 Birch Bark Road (Lobster Hub) stated he has lived in Medway a very long time and that he has recently bought the food truck in collaboration with Cousins Lobster. He stated he inquired with the Town about a commissary space and was directed to the VFW where he met John Larney, and was told they could use the space for their business for food preparation and storage of the food truck. He stated that they are hoping to have this opportunity to utilize the space and have received a lot of positive feedback from town residents.

Mr. Stumpf then reviewed the special permit criteria of Section 3.4 and noted that these types of businesses have been operating successfully at the site for some time, and the site is appropriate, and the businesses have not caused any detriment. The Board members agreed that the special permit criteria have been met.

**With a motion made by Brian White, seconded by Gibb Phenegar the Board finds that the Applicant has met all of the required special permit decision criteria passed by a vote 5-0 with a roll call vote:**

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

#### **A. Section 5.5.D: Extension of Nonconforming Use Required Findings**

The Board then discussed the nonconforming use findings, and found that the site is a lawful, pre-existing nonconforming use as a VFW post, including the use of the kitchen. The Board further found that the proposed use would not be substantially more detrimental to the neighborhood.

**With a motion made by Brian White, seconded by Gibb Phenegar, the Board finds that the present use of the site as the VFW Post, including the use of the kitchen, is a lawful pre-existing nonconforming use, passed by a vote of 5-0 with a roll call vote:**

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

**With a motion made by Brian White, seconded by Gibb Phenegar the Board finds that the Applicant has proved that the proposed extension of the nonconforming use will not be substantially more detrimental to the neighborhood than the existing nonconforming use, passed by a vote of 5-0 with a roll call vote:**

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

The Board then discussed potential conditions upon approval. Ms. Saint Andre reviewed the boiler plate conditions, noting that numbers 1, 5 and 6 were not applicable because no construction is contemplated. She discussed additional conditions specific to this property. She stated that the property is owned by the Town of Medway and leased to the applicant. The first condition focused on making sure that no retail sales or restaurant(s) would be conducted out of the VFW property. Mr. Stumpf asked if this would prevent one of the businesses to set up on the property for special occasions. Ms. Saint Andre stated that it is not the intent to prohibit occasional retail sales, just not on a regular basis as this is a residential zone. She then proposed another condition that the permit is subject to the lease from the town and they would need to go to BOS for approval. The last condition was in regards to any alterations to the VFW or the kitchen in regards to complying with the codes, there are not any proposed alterations at this time. Mr. Larney and all Board members agreed to the additional conditions.

Andrea Crow, Medway VFW Senior Vice Commander inquired about the food trucks, in the event of having an “off week” meaning slow business, that one of them can set up there for more than 8 hours a day. Ms. Saint Andre clarified the intent of the businesses utilizing the VFW and use of the property and that they are not supposed to be serving the food there on a regular basis. Due to the zoning district being a residential zone they cannot have a business there, except for the operations that are pre-existing non-conforming.

It was concluded that the condition will be rewritten to reflect that occasional events are allowed.

Mr. Emero asked for clarification in regards to the condition on setting up at the VFW for events. Ms. Saint Andre clarified per the zoning district being residential, restaurant uses are not allowed, and these businesses are being allowed on a limited basis on the site, as an extension of the VFW Post.

**Motion to grant the special permit request for 123 Holliston Street with conditions set forth made by Brian White, seconded by Gibb Phenegar passed by a vote of 5-0 with a roll call vote:**

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

**With a motion to allow any one member of the Board to sign the decision made by Brian White, seconded by Gibb Phenegar passed by a vote of 5-0 with a roll call vote:**

Brian White – Aye  
Tom Emero – Aye  
Gibb Phenegar – Aye  
Christina Oster – Aye  
Rori Stump – Aye

**Motion to close the public hearing for 123 Holliston Street made by Brian White, seconded by Gibb Phenegar passed by a vote of 5-0 with a roll call vote:**

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

#### **Other Business that may properly come before the Board**

Timber Crest Chapter 40B – Ms. Saint Andre stated that there is a small amendment needed to the covenant and was hoping to get the Board’s approval. She stated that due to it being a subdivision of land, under the Subdivision Control Law the applicant is required to provide surety to the Board that all roadways and utilities will be completed. The covenant states that lots will not be built on or conveyed without the work being done. When the developer is ready to start building homes or selling lots in each phase, he can ask to release the covenant for those lots and instead provide a bond or funds to ensure completion of the roads and utilities. This development will be done in phases and the Board will be getting an estimate from Tetra Tech for the bond amount for each phase. It was decided to approve and send the Board the final copy when completed for review.

**Motion to approve the amended covenant for Timber Crest with the final wording to be approved by applicant, town counsel and the Ms. Saint Andre made by Brian White, seconded by Gibb Phenegar passed by a vote of 5-0 with a roll call vote:**

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

Rori Stump - Aye

### **Approval of Minutes**

- March 4, 2020 and March 18, 2020

**Motion to approve the minutes for March 4, 2020 and March 18, 2020 as presented made by Brian White, seconded by Gibb Phenegar passed by a vote of 5-0 with a roll call vote:**

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stump - Aye

### **Upcoming Meetings**

- April 15, 2020 – 83 Lovering Street Continuation

### **Adjourn**

**Motion to adjourn the meeting at 8: 15 p.m. made by Mr. White, seconded by Mr. Phenegar, passed by a vote of 5-0 with a roll call vote:**

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stump - Aye

Respectfully submitted,

Stefany Ohannesian

Administrative Assistant

Community and Economic Development

Edited by Barbara J. Saint Andre, Director, Community and Economic Development

### Documents reviewed at this meeting:

1. Meeting Participation Guide
2. Boiler Plate Conditions