

Board Members
Rori Stumpf, Chairman
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, December 2, 2020 at 7:30 p.m.
Virtual Meeting
Meeting Minutes

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

Also 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 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. The Board members then introduced themselves, because they were all participating remotely.

Public Hearing

12 Charles River Road – The application is for the issuance of a **special permit** under Section 5.5.E. **and/or variance** from Section 6.1 of the Zoning Bylaw to demolish the existing, nonconforming garage which is set back approximately one foot from the rear lot line, and replace it with a new garage (24' x 24') set back 2 feet from the rear lot line, where 10 feet is the required set back.

Rick Goodspeed, the applicant and property owner, was present and discussed his application. He explained that the garage is about 80 years old or more with no foundation, it was built on the dirt and suffers substantial termite damage. He explained that they are afraid to park their cars in it and have not been able to use it in quite some time. They spoke with Building Commissioner, Jack Mee, who also agreed it is in bad shape. Mr. Stumpf stated the proposed garage is in the same footprint and similar location as the existing garage. Mr. Goodspeed explained the neighborhood used to be all cottages which have slowly changed to residences over the years as the neighborhood evolved. The lot is a double wide lot, approximately 50 feet by 200 feet, and if they move the garage forward to conform to current zoning, there would be no room for parking.

Mr. Phenegar said this proposed garage is essentially the same as the existing. The other board members agreed. Mr. Phenegar added that Mr. Goodspeed also received a letter from the Historical Commission with permission to demolish the existing garage. Mr. Phenegar stated the proposed garage does not further derogate from the neighborhood and the existing garage is a safety concern. Ms. Saint Andre explained that this proposal will need to either comply with Section 5.5.E. or obtain a variance. It does not seem to meet the criteria for Section 5.5.E because the proposed garage will not meet the applicable dimensional requirements, and will need to meet variance criteria in order to be allowed. The board then discussed the variance criteria.

1. Circumstances relating to the shape, topography, or soil conditions of the subject property, which do not generally affect other land in the zoning district.

Mr. Stumpf stated that the lot is unique having frontage on three streets. All board members agree with that the shape of the lot being the qualifying finding for this criterion, as well as the placement of the house on the lot.

Motion made by Brian White, seconded by Gibb Phenegar that there are circumstances related to the shape of the property not generally affected by other land in the zoning district passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

2. Substantial hardship caused by the circumstances from Criteria A.1 when the Zoning Bylaw is literally enforced.

Mr. Stumpf stated that due to the shape of the lot and where the house sits on the existing lot, there would be no other spot to put the garage and the only other option would be to remove the garage entirely which would cause a hardship by reducing the value of the lot entirely, and any owner would have this hardship.

Motion that a substantial financial hardship is caused by the circumstances listed above when the Zoning Bylaw is literally enforced made by Brian White seconded by Gibb Phenegar passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

3. Desirable relief may be granted without substantial detriment to the public good.

Mr. White stated that the current existing nonconforming structure and the proposed garage are essentially the same as far as size and location, and therefore not substantially detrimental to the public good. Mr. Phenegar agreed and stated the proposal would improve the public good by increasing safety as the current garage as it stands is not structurally sound.

Motion that desirable relief may be granted without substantial detriment to the public good made by Brian White, seconded by Gibb Phenegar, passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

4. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning by-law.

Mr. White stated that the existing structure as it is, is no better or worse than what is being proposed and it will not substantially derogate from the Zoning Bylaw.

Motion that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning By-law made by Brian White seconded by Gibb Phenegar, passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

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

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

Ms. Saint Andre discussed potential conditions and that the boilerplate conditions have been modified slightly from what has been conditioned for new homes or larger construction.

Motion to grant the variance request for 12 Charles River Road with conditions set forth, made by Brian White, seconded by Gibb Phenegar, passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

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

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

A motion was made by Brian White to deny the special permit, however before the roll call vote was taken, Karen Keegan from Guaranteed Builders asked for clarification because the special permit was proposed to be denied. Mr. Stumpf stated they do not need a special permit, they need a variance to move forward.

Motion to deny the special permit in that the new proposed structure would not be in accordance with the applicable dimensional requirements made by Brian White, seconded by Gibb Phenegar, passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

Motion to close the public hearing for 12 Charles River Road made by Brian White, and seconded by Gibb Phenegar, passed with a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye

Gibb Phenegar – Aye

Christina Oster – Aye

Rori Stumpf – Aye

Other Business

- Discuss possible Zoning amendments for May 2021 Town Meeting

Ms. Saint Andre summarized the three possible amendments for May 2021 Town Meeting that the Board directly deals with in the Bylaw; Mr. Stumpf suggested going over each individually.

The first one being the Accessory Family Dwelling Unit (AFDU) bylaw and the separate structure option. In addition, there have been many requests for AFDUs to exceed 800 square feet which is the set limit in the bylaw. There was a citizen request to amend the by-law to not allow an AFDU as a separate structure. Mr. Phenegar stated he has no issues with a separate structure and the one that was approved had much less visual impact than an addition would have had on that particular property. The other Board members agreed with Mr. Phenegar. Mr. Stumpf doesn't see the need to remove this option. Mr. Emero agreed and this will allow an older general generation that want their own independence to still have the option to live with family. The Board has a discussion around the process and flexibility that the bylaw allows right now. Mr. Stumpf agreed and stated they should have a lower square footage limit as they have the ability to increase the size. There is then a discussion around the size of an AFDU and the future use of what the AFDU may be once the person who put it in moves on. Ms. Oster stated she is not in favor of a hard and fast number and potentially could be higher, but each application is different. Mr. Phenegar stated that 800 square feet is too small and the last 5 approved AFDU's that have been approved have been over that 800 sq. foot limit. The 800 sq. feet is more of a "snow fence" and it hasn't stopped people from applying for more because it's an option. Mr. Phenegar stated that if a realistic number is proposed to be changed, it could keep more applications in line with the intent of the bylaw. Mr. Stumpf stated that he doesn't think it is fair to include unlivable or unfinished space within the total square feet. He is happy with the 800 square feet and leaves room for

flexibility for the applicant. Mr. Phenegar stated that potentially changing the footprint to be regulated would give the applicant more room to work with. This idea would also give them a backstop; he's proposing "total living space", which would be above grade first and or second floor and count that in total square footage. Mr. Emero does not agree with the idea of not counting the basement as living space. There was a discussion about foundations and basements being finished or not being applicable in the total square footage. Mr. Stumpf inquired if the 800 sq. feet limit has stopped an AFDU from being built by gaining an exception. Ms. Oster agreed and stated that each situation has unique circumstances. Ultimately it was decided to table this discussion and discuss sizing regulations more in depth.

The next topic is Section 5.5.E Nonconforming Structures, Ms. Saint Andre explained the issue is whether the bylaw should be changed to allow alteration and reconstruction of those types of structures (i.e. residential separate garages or sheds) that would not be more detrimental without needing a variance, only a special permit. Mr. Stumpf clarified about the sizing of lots and setbacks varying throughout the town and the circumstances could be very different, additionally he doesn't believe it should be changed. There is further discussion about the special permit criteria and if it is amended how would it apply. Ms. Saint Andre provided an example, and this would apply to accessory structures. Mr. White would be in favor of this change, Ms. Saint Andre read Section 5.5.C of the Bylaw to clarify for the members. Mr. Emero asked for clarification on "nonconforming nature", Ms. Saint Andre clarified. The Board decided to table this topic as well.

Mr. Stumpf stated that he is in favor of the proposal of scaling building size for lot size regarding teardowns. There is a discussion around the size of home on smaller lots and the overall massing to begin with. Ms. Saint Andre stated that this was a potential approach, and others can be explored. They discuss the house styles applying to the potential requirements regarding massing. Mr. Stumpf stated this doesn't address lot splits and a massive house being built on the new lot. Ms. Saint Andre inquired about what exactly they are looking for in terms of massing or is a priority or not, Mr. Stumpf stated he would like to have the ability to approve lot splits but not have massive houses being built on the newly created lots. There is a discussion about the different circumstances and if this can be covered with a broad bylaw.

The Board collectively stated common driveways are not something they would like to see in the Town, except for Mr. Emero, who didn't see a problem with common driveways.

Mr. Stumpf brought up the two-family dwelling needing to have the appearance of a one family and the possible amendment to remove that requirement. There is a discussion about possible amendment. Mr. White stated that the only space it's currently applicable for is a corner lot, and he does not agree with this and doesn't think it needs to stay in the bylaw. The Board collectively agreed that this requirement could make a structure's appearance look "funny".

Approval of Minutes

- November 18, 2020

Motion to approve the minutes for November 18, 2020 as presented made by Brian White, seconded by Gibb Phenegar, passed by a roll call vote of 5-0.

Brian White – Aye

Tom Emero – Aye
Gibb Phenegar – Aye
Christina Oster – Aye
Rori Stumpf – Aye

Upcoming Meetings

- December 16, 2020 –
 - 24 Broad Acres Farm Road – AFDU Request
 - 35 Milford Street (Parcel A-1) – Two Family Special Permit Request
 - 35 Milford Street (Parcel A-2) – Two Family Special Permit Request
- January 6, 2021

Adjournment

Motion to adjourn the meeting at 09:07 p.m. made by Brian White, seconded by Gibb Phenegar, passed with a roll call vote of 5-0.

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

Respectfully submitted,

Stefany Ohannesian
Administrative Assistant
Community and Economic Development

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