

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

MINUTES OF MEETING

February 7, 2018

Present: Chair Eric Arbeene; Vice Chair Brian White; Clerk, Carol Gould; Committee Members: Rori Stumpf, Bridgette Kelly

Also present: Mackenzie Leahy, Administrative Assistant, Community & Economic Development

Chairman Arbeene called the meeting to order at 7:31 PM.

Mr. Arbeene requested a moment of Silence in honor and memory of Stephanie Mercandetti, Director of Community & Economic Development.

Citizen Comments:

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

Any other business that may properly come before the Board:

Consideration for Associate Member Position – Christina Oster provided an introduction to her resume and interest in holding a position with the Board. The Board briefly discussed Board responsibilities with Ms. Oster.

The Board voted to recommend Ms. Oster for the Zoning Board of Appeals Associate Member Position to the Board of Selectmen for consideration of Appointment. Motion by Mr. White, second by Mr. Stumpf, approved unanimously.

Public Hearings:

7:35 P.M. – The Applicants, John & Kathryn Regan, seek Variances from Section 6.1 of the Zoning Bylaw to split one lot into two lots. Lot 1 would be 22,503 sq. ft. for an existing multifamily dwelling, requiring a variance from the required 30,000 sq. ft. Lot 2 would be 17,759 sq. ft., requiring a variance from the required 22,500 sq. ft. for a single family lot. The applicant also requests variances for the existing structures on Lot 2, which would be within the required setbacks.

Ms. Leahy, Community & Economic Development Department, explained that it was necessary for the Applicant to come before the Board when the Applicant had already received the appropriate variances in August of 2016,

due to the fact that variances are valid only for a year unless “exercised,” and the Applicant had not taken any action on the variances.

The Applicant explained that he planned to move his business from its current location at the northern end of Trotter Drive down to the western end of Alder Street. The Applicant owns the property. Shortly after receiving the variances, he had a number of personal matters arise which took precedence over beginning work on his new location. The Applicant was requesting the same two variances as the Board had previously granted —a variance from the front setback for the location of the proposed building and a use variance for automotive sales and service.

There were no members of the public who spoke in favor or opposition of the request.

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

- The Applicant, Philip Anza, Variance from Section 5.4 of the Zoning Bylaw to grant the use of an automotive sales and services business in the West Medway Industrial (Industrial III) Zoning district where prohibited; and also to allow for a Variance from Section 6.1 of the Zoning Bylaw for the reduction in the required front yard setback from 30 ft. to 24.9 ft. for the construction of the proposed building.

The Applicant’s Representative provided an overview of the requested variances. He explained that the lot area was 40,662 s.f. and that the Applicant was requesting a total of five variances. However, three of the five variance requests are incidental to the request to “split” the lot into two lots, as some of the structures were pre-existing nonconforming and do not meet the required setbacks. Lot 1 would be 22,503 square feet, necessitating a variance from the required minimum 30,000 square feet lot size for a multi-family dwelling and Lot 2 would be 17,759 square feet, necessitating a variance from the required minimum 22,500 square feet lot size for a single family lot. If the Board granted the requests, the garage and barn on Lot 2 would most likely be moved or razed at the time that the lot was sold and a new home was built, however, the owners did not want to tear down the existing structures until such time that the lot was sold.

The Applicant’s Representative continued to explain that there was a taking of land by Norfolk County on the property as Village Street and Holliston Street layouts were changed in 1936. The lot is a corner lot and had substantially more land taken than the surrounding properties. In addition, the lot is much larger than the surrounding properties, many of which pre-date zoning. The shape of the lot is triangular and has more than adequate frontage. “Splitting” of the lot would not create a lot that is uncharacteristic of the Zoning District.

The plan for the taking can be found in pl. 42 bk. 120 of 1936, plan showing the Relocation and Widening of Holliston Street.

The Applicants’ intent would be to sell Lot 2 in order to provide for their retirement.

No member of the public spoke in favor or opposition of the requests.

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

- The Applicant, Cellco Partnership d/b/a Verizon Wireless, seeks a Special Permit under Section 8.7 of the Zoning Bylaw for a Wireless Communications Facility, as well as Section 5.6.1 for a Flood Plain District Special Permit, and Section 5.5 Nonconforming Uses & Structures Special Permit to change/extend the existing nonconforming use.

The Applicant's Representative provided an overview of the proposed Wireless Communications Facility and how it will improve wireless service and fill in a substantial coverage gap that now exists in the Verizon Wireless network. He also addressed how it satisfies the requirements of the Medway Zoning Bylaw.

The Board also discussed with the Applicant's Representative the comments of the Town of Medway Administrative Site Plan Review Team.

There was one comment from the public supporting the need for additional coverage in that area of Medway and suggesting that the height of the tower be increased to increase the amount of coverage.

The Board voted to approve Task 1 and Task 2 for Peer Review services from Tetra Tech for the review of 15 West Street in the amount of \$1,600 plus 5% expenses, motion by Mr. Stumpf, seconded by Mr. White, and approved unanimously.

A motion to continue the hearing to February 21, 2018 hearing was made by Mr. White, seconded by Mr. Stumpf, and approved unanimously.

Deliberations

50 Alder Street – The Board determined that all previous criteria for the variance requests were still valid.

The Board found that:

- The applicant demonstrated that the limited size of the subject lot, and the presence of substantial amount of wetlands thereon, render the subject lot essentially ill-fitted for the industrial uses prescribed by the Zoning Bylaw and that a small commercial use represents an effective use of the subject lot;
- The location of the wetlands on the subject lot, and the desirability of maintaining a substantial separation between the wetlands and the construction needed for the proposed automotive sales and service building, render it desirable to place the building significantly closer to the front lot line than permitted by current zoning;
- The proposed use, although not permitted under the Zoning Bylaw, is not of a type which would be disruptive to permitted uses in the zoning district and hence that the requested relief can be granted without substantial detriment to the public good or excessive deviation from the intent of the Zoning Bylaw. Further, this is relocation of a business already within the zoning district to a more suitable location; and
- The applicant has previously conducted a similar business within the same industrial zoning district for a number of years without objection from his present neighbors and that the owners and/or occupiers of the lots adjacent to the subject lot have raised no objections to the proposed use.

Motion by Mr. Stumpf, second by Mr. White, approved unanimously.

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board **GRANTED** the Applicant(s), Philip Anza, **VARIANCES** from the requirements of Sections 5.4 and 6.1 of the Zoning Bylaw for the property located at 50 Alder Street for the use of the Lot as an Automotive Sales and Service and to permit construction to a front setback of 24 feet instead of the 30 feet.

Motion by Mr. Stumpf, second by Mr. White, approved unanimously.

180 Village Street – The Board found that:

- The lot is of sufficient size, in comparison to other lots within the Village Residential Zoning District, that it would not be detrimental to be “split” into two lots, in accordance with the plans provided and attached hereto. ***Motion by Mr. White, second by Mr. Stumpf, approved unanimously;***
- The existing structures on the lot do not meet the setback requirements for the Village Residential District, however, granting of the requested relief for setbacks in splitting the lot into two lots would not be detrimental as they are pre-existing nonconforming and no “new” nonconformities would be made. ***Motion by Mr. White, second by Ms. Kelly, approved unanimously;*** and
- The overall shape of the existing lot has been changed by the County’s taking from January 1936. ***Motion by Mr. White, second by Mr. Stumpf, approved unanimously;***

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board **GRANTS** the Applicant(s), John & Kathryn Regan, **VARIANCES** from Section 6.1 of the Zoning Bylaw in order to split the property at 180 Village Street into two lots. Lot 1 will be 22,503 square feet, with a variance from the required 30,000 square feet for a multi-family dwelling and Lot 2 will be 17,759 square feet, with a variance from the required 22,500 square feet for a single family lot. In addition, the Board grants the variances for the side setback of the existing garage from 10 feet to 5.8 feet, the front setback for the existing garage from 20 feet to 0 feet, and a variance for the existing ramp from 10 feet to 0 feet.

Motion by Mr. Stumpf, second by Mr. White, approved unanimously.

Any other business that may properly come before the Board:

Discussion of Zoning Board of Appeals Rules & Regulations Amendments – Tabled.

Correspondence:

None.

Approval of Minutes:

1/03/18: Motion by Mr. Stumpf, seconded by Mr. White to approve the minutes as presented. Approved unanimously.

Upcoming Meetings:

January 17 – Ms. Leahy explained that there were other applications that had been submitted but they were not scheduled for the 17th. The Board decided to cancel the meeting for January 17th, 2018.

February 7 – Ms. Leahy noted that there were at least two applications scheduled for February 7th, 2018 – 15 West Street Wireless Communication Facility special permit application and 180 Village Street request for variances.

February 21st – No new applications at this time.

Adjournment

A motion to adjourn was made by Mr. White, seconded by Ms. Kelly and approved unanimously. The Board adjourned at 10:16 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development