

**Town of Medway
Zoning Board of Appeals Meeting
School Committee Presentation Room
Medway Middle School
45 Holliston St, Medway MA**

MINUTES OF MEETING

January 4, 2017

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

Also present: Stephanie Mercandetti, Director, Community & Economic Development; Mackenzie Leahy, Administrative Assistant, Community & Economic Development

Chairman Cole called the meeting to order at 7:35 PM.

Citizen Comments:

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

Approval of Minutes:

A motion was made to approve the minutes of December 21, 2016 by Mr. White, seconded by Mr. Kennedy, and approved unanimously.

[November 16, 2016 Minutes were not prepared for approval.]

Any other business that may properly come before the Board:

Ms. Leahy noted that the ZBA had received a new application for 249 Village Street that would be on the agenda for January 18, 2017 at 7:40 PM. The application is for a Special Permit and Variance of an existing single family home to be modified and reconstructed as a two-family home for a one bedroom apartment and a studio apartment.

Chairman Cole asked if it was actually a two-family and not an accessory family dwelling unit. Ms. Mercandetti explained that the applicant is looking to convert from single family to two-family.

Chairman Cole moved to accept the application of Maria Varriachone relating to 249 Village Street and schedule the hearing for January 18, 2017 at 7:40 PM; seconded by Mr. White; approved unanimously.

Correspondence:

None.

Public Hearings:

7:40 P.M. – The Applicants, Sean & Brad Currivan d/b/a Auto Exchange, seek a Special Permit under Section 5.5 D of the Zoning Bylaw to expand/extend the pre-existing non-conforming use to include sales and service of new and used snowplows; and a Variance from Section 5.4 Table 1 D to allow the outdoor storage of the snowplows, with respect to the property at 57 Main Street.

Sean and Brad Currivan, d/b/a Auto Exchange, were present, as well as Stephen Kenney, of Kenney and Kenney, representing Sean and Brad Currivan.

Chairman Cole noted that he had a limited association with the applicants, that he sends his cars there for inspections, however he stated that he had no financial interest and could present an unbiased hearing, but if anyone felt that he couldn't, they could object.

Mr. Kenney explained that the property was located at 57 Main Street and was owned by Sean Currivan Trustee and AKS Irrevocable Trust; the business that is operated there is Auto Exchange and it is located in the AR-I district. The present use of the property is a used car dealership and a state auto inspection center. The proposed use is the same as the present, but with the addition of sale and service of snow plows. The use is pre-existing nonconforming and it has been in operation for a number of years prior to zoning. The applicants are seeking a determination that this is an extension of the nonconforming use; and taking the position that it is not substantially more detrimental than the existing nonconforming use. The applicants are also seeking a variance from Table 1 D for outdoor retail sales [and storage]. Mr. Kenney stated that they did not believe the variance was necessary as the proposed use would be an allowable extension of the existing [nonconforming] use. The Building Inspector, Jack Mee, had visited and made the position that the applicant needed to have a determination made by the Board as a reasonable extension of the pre-existing nonconforming use. The applicants own and operate a used car dealership, pursuant to a used car dealership Class 2 license. The sales would be available during snow emergencies and would also provide parts to snow plows in the event that the parts break down during snow emergency. Mr. Kenney stated that there would be no adverse effects of the use being proposed and the use will not substantially change any use that is current at the property; and the proposed use is a logical extension of the existing business. Mr. Kenney stated that the use would not harm the surrounding neighborhood in any way and the applicants are not proposing any changes to the exterior of the property. The applicants recently built a white fence around the property. Mr. Kenney provided plans of record of to the Board, the first showing the plan, and the second showing the plan with the fencing on the plan.

Mr. Kenney stated that the applicants were visited by Jack Mee and the Fire Chief; they asked the applicants to clean up the property. In response, the applicants cleaned up the property and also installed the fence. The fence does encroach upon the abutting lot [59 Main Street], it is the home of Sean Currivan. The fence was built that was because it was a logical extension [straight back] instead of trying to follow the property line. Mr. Kenney stated that the applicants were proposing the storage of the snowplows within the fenced area excluding the area on the abutting property [59 Main Street].

Mr. Kenney stated that the applicants would like to have a number of snow plows exhibited in front of the property along with the used cars and have been doing so for a number of years. The applicants

were following Jack Mee's advice to seek the determination by the Board that this is a reasonable extension of the existing use. Mr. Kenney explained that if the applicants cannot continued to sell the snow plows, it would have a serious impact on the business. As the business has developed, they've developed this part of the business, and it has become a large part of their business. Sean and Brad work there with no employees and it is their primary means of income.

Mr. Kenney stated that the applicants distributed a letter of support which many of the residents surrounding the business have signed.

Chairman Cole asked if the applicants had previously been selling any auto parts. Sean Currivan answered that they were not, apart from changing bulbs during inspections. Chairman Cole noted that the applicants did, in fact, have a very limited sale of parts then.

Ms. Mercandetti explained that because the applicants have a pre-existing nonconforming use, they need to come before the Board to expand their use as the applicants are requesting something new for their business; and because the business is within AR-I district [they applied for the variance for outdoor storage].

Chairman Cole asked if the applicants were looking to repair the plows on-site. Sean Currivan explained that if a plow broke, it would come in to be repaired.

Chairman Cole asked if the plows would be mounted onto trucks on-site. Sean Currivan answered that they would be. Chairman Cole was concerned about the noise that the installation of the plows onto trucks would make. Sean Currivan replied that they have been installing the plows for years and there is little noise.

Chairman Cole asked how high the fence was; Sean Currivan answered that it is 6 feet and the plows are only 2 ½ - 3 feet. Chairman Cole noted that he assumed the plows that would be sold would be for regular trucks and not plows similar to the ones used for the Mass Pike; Sean Currivan answered that they would not be [plows similar to the ones used for the Mass Pike].

Mr. White read Jack Mee's comments on what the applicants would need to apply for: the sales and service of new and used snow plows, the storage of the snow plows, and the banner sign. Mr. Kenney stated that the banner sign had been removed and the applicants would deal with signage later on.

Chairman Cole asked if the storage would be for people's snow plows or just the plows being sold; Sean Currivan answered that it would only be the plows being sold.

Ms. Leahy read into record correspondence received by Staff. The Board received a comment letter from Jack Mee, Building Inspector, received December 16, 2016; correspondence from Jack Mee dated December 28, 2016; correspondence from Bridget Graziano, conservation agent, received December 28, 2016; and an email Bridget Graziano on the present date, which the applicants granted permission for a site visit—she determined that there were no wetland resources within 200 feet of the proposed expansion of business and the Conservation Commission had no jurisdiction of the area; and that Ms. Leahy had sent an email January 3, 2017 to ensure that the applicant would be providing the proposed storage area at the present hearing.

Ms. Leahy re-noted that the hearing before the Board was only for 57 Main Street, therefore any expansion into 59 Main Street must be excluded.

Chairman Cole expressed that as he understood, the application should be considered under the Special Permit and the Variance request was submitted as a “backup.” Mr. Kenney answered that was correct.

Chairman Cole asked if there were any public questions or comments. Tony Biocchi of 25 Main Street stated that the business had been there for over 50 years and the applicants have been selling plows for a considerable amount of time. Mr. Biocchi expressed that part of his and the applicants’ concern is making sure that the Town and residents have what they need with the sales of snow plows in order to have enough parking spaces in Town when there’s snow. Mr. Biocchi also recognized that inspections and plow installation is done inside of the garage bays. Mr. Biocchi commended the applicants for clearing the back area and installing the fence so that nothing is seen. He stated that he was in favor of the business expansion and believed there was a need for it.

Mr. Arbeene asked if there were plows there currently; Brad Currivan responded that there were plows there currently.

A motion to close the hearing for Sean and Brad Currivan d/b/a Auto Exchange at 57 Main Street was made by Mr. White; seconded by Ms. Gould; approved unanimously.

Mr. Stumpf stated that he was inclined to vote in favor of the application as he saw it as a natural extension of the existing business and so no detrimental effect of the neighborhood and no residents in opposition. Mr. White, Mr. White, and Mr. Kennedy agreed. Mr. Kennedy also noted that the applicant is making an effort to hide the storage. Ms. Gould agreed and said that it serves a purpose and helps the Town.

Mr. Arbeene stated that he was concerned about seeing 24 cars and 12 plows along the roadway, his personal preference would be less [plows on display]. Ms. Gould agreed that was too many for along the road. Mr. Stumpf stated that the purpose was to show the sales, 2 or 3 may not show [there is sale of] the plows, but 12 would show that.

Chairman Cole stated that the Board should take the application as a Special Permit with the extension of business, rather than as a variance.

Chairman Cole motioned to find that the applicants demonstrated that there is a pre-existing nonconforming use of the subject lot for used car sales and state inspections involving the limited sale of auto parts. The motion was seconded by Mr. White and it was approved unanimously.

Chairman Cole moved to find that the sales and service of new and used snow plows and snow plow parts and accessories is a logical extension of the pre-existing nonconforming use. The motion was seconded by Mr. White and it was approved unanimously.

Chairman Cole moved to find that the storage of snow plows within the portion of the fenced in area behind the existing building and in line with the existing building, and the display of a limited number of snow plows in front of the existing building, within the existing subject lot is a logical extension of the pre-existing nonconforming use of the lot. The motion was seconded by Mr. White and it was approved unanimously.

Chairman Cole moved to find that the granting of the requested Special Permit would not be in conflict with any of the criteria for the grant of Special Permits set forth in section 3.4.C of the Zoning Bylaw and in particular that grant of the requested Special Permit would not involve noise or visual or other

nuisances within a predominantly residential area. The motion was seconded by Mr. White and it was approved unanimously.

Chairman Cole moved to find that granting of the requested Special Permit would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming use. The motion was seconded by Mr. White and it was approved unanimously.

Chairman Cole moved to grant to the applicants, Sean & Brad Currivan d/b/a Auto Exchange, at 57 Main Street, a Special Permit pursuant to section 5.5.D of the Zoning Bylaw for the sales and service of new and used snow plows, as well as parts and accessories therefor, subject to the following conditions:

- 1. Outdoor storage of the snow plows shall be confined to the portion of the presently existing fenced in area lying behind the existing building and on the subject lot, except that not more than 12 snow plows may be displayed within the view of the public.***

The motion was seconded by Mr. White and it was approved unanimously.

Chairman Cole moved that since the Board believes that all necessary relief has been granted by the foregoing Special Permit, the Board hereby denies the application for a Variance. The motion was seconded by Mr. White and it was approved unanimously.

8:00 P.M. – The Applicant, Timber Crest LLC, seeks a Comprehensive Permit under MGL c. 40B, Sections 20-23 as amended, to allow construction of a 157 unit development to be called “Timber Crest Estates” containing 25% affordable units on 170.36 acres which is comprised of the properties located at 143 Holliston Street, 153R Holliston Street, 177A Holliston Street, 21R Fairway Lane, 13 Ohlson Circle, 102 Winthrop Street, 11 Woodland Road, 0R Woodland Road, and 165 Holliston Street, Medway, MA.

The applicant has submitted a request to continue the hearing without testimony to January 18, 2017.

Ms. Mercandetti explained that the Board was in receipt of a Tax Delinquent list provided by the Treasurer/Collector in which a number of parcels within the development are on that list, Staff needed to schedule a hearing for that part of the application for January 18, 2017 at 8:00 PM.

Chairman Cole moved continue the hearing for Timber Crest LLC to January 18, 2017 at 8:05 PM; seconded by Mr. Arbeene; approved unanimously.

Any other business that may property come before the Board (continued):

Ms. Mercandetti explained that the Board had received the invoice from Tetra Tech regarding the peer review services for Timber Crest LLC. This was the latest amount due for services up to December.

Ms. Mercandetti explained that every time the Board will need additional services, Tetra Tech will prove a change order, the Board will approve the sum, and Timber Crest LLC will pay the total for the change order to the Board.

Chairman Cole moved to approve the payment for the invoice from Tetra Tech, dated December 23, 2016 in the amount of \$9,880.65 to be paid. The motion was seconded by Mr. White and it was approved unanimously.

Upcoming Meetings:

No further discussion.

Adjournment

A motion to adjourn was made by Mr. White, seconded by Ms. Gould and approved unanimously. The Board adjourned at 8:58 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development