

# **TOWN OF MEDWAY**

## **ZONING BOARD OF APPEALS**

### **MINUTES OF MEETING JANUARY 16, 2008**

Members present were Mr. Musmanno, Mr. Cole, Mr. Flotta and Mr. Biocchi.

The meeting was called to order at 7:20 p.m. The Board agreed that its next meeting would be on March 5, 2008 at 7:15 p.m.

There being no objection from any member, the Board proceeded immediately to hear the application of Mr. Dishington, who appeared on his own behalf. Mr. Dishington explained that the proposed transfer would not cause Lot C/F to become non-conforming but it will decrease the non-conformity of Lot D (which is 27 Norfolk Street). However, the area of Lot C/F would go below the prescribed minimum. No members of the public raised any questions or made in statement in support of or in opposition to the application. A motion to close the hearing was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously.

There being no objection from any member, the Board then proceeded to consider the application of the Town of Medway, who were represented by Mr. D'Amico, Director of Public Works. Mr. D'Amico explained that, following the introduction of the GATRA bus to the Norfolk railroad station, the Town had received an offer from a corporate sponsor to pave a parking lot behind the West Medway Fire Station, and to provide signs bearing the sponsor's name to indicate the entrances to this parking lot. The proposed signs comply with Federal standards. The Town's original intention was to place the signs within the right-of-way. However, the Zoning Officer ruled that, since none of the sponsor's business was conducted on the relevant site, the proposed signs would be off-premises signs and an appropriate setback was needed. Furthermore, the Zoning ByLaw only allows a single sign. Accordingly, the Town is seeking variances to permit two signs (there being two entrances to the parking lot) with zero setback.

The Board noted that the Zoning ByLaw requires that the input of the Design Review Committee be sought before the Board makes a decision on this type of application. Ms. Childs, the Planning Board Assistant, who was present, indicated that the

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Design Review Committee meets twice per month. Accordingly, on a motion made by Mr. Musmanno and seconded by Mr. Biocchi, the Board unanimously decided to refer the matter to the Design Review Committee and to continue the application to March 5, at 7:30 pm.

The Board then held a general discussion with Ms. Childs<sup>afsk-</sup> regarding possible areas for revision of the Zoning ByLaw. Among the topics raised by members of the Board were problems regarding the areas of signs, especially in commercial areas, and setback variation. Clarification regarding illumination of signs would be helpful, as would be correction of a clause mangled by the Attorney-General's Office. It was noted that there appears to be a tendency for the Zoning ByLaw to stray into areas which it is not permitted to regulate, for example in the requirement for Design Review Committee review of sign applications. There is a danger that a well-informed petitioner would recognize such straying of the Zoning ByLaw and embroil the Town in an expensive legal action. With regard to two-family dwellings, the question was raised whether the minimum lot area for construction of a new two-family dwelling should also apply to conversions.

The Minutes of November 7 were approved unanimously on a motion made by Mr. Musmanno and seconded by Mr. Biocchi. The Minutes of December 5 were approved 3-0 on a motion made by Mr. Musmanno and seconded by Mr. Flotta; Mr. Biocchi abstained since he was not present at the December 5 Meeting.

The Board proceeded to deliberation on the application of Mr. Dishington. Full details of the deliberations and the conditions attached to the Board's unanimous grant of the requested variance are given in the Board's Decision.

The Board then unanimously agreed, by a roll call vote, to convene an executive session for the purpose of discussing pending litigation concerning Maritime Housing, with no intent to return to public session.

## **TOWN OF MEDWAY**

### **ZONING BOARD OF APPEALS**

#### **MINUTES OF MEETING DECEMBER 3, 2008**

Present were Messrs. Musmanno, Cole, Biocchi, Gluckler and Flotta, and Ms. Gould.

The meeting was called to order at 7:20 p.m.

A motion was made by Mr. Flotta, seconded by Mr. Musmanno and passed unanimously to adopt the Minutes of the November 5, 2008 meeting with three minor corrections.

There being no objection from any member, the Board proceeded to hear the application of Cellco Partnership, on whose behalf appeared Mr. Thomas Hildreth of McLane, Graf, Mr. Anthony Pearsall, and Mr. Michael Creamer, a wireless engineer. Mr. Hildreth stated that the application related to co-location of additional antennas at the existing monopole within an electrical transmission tower at 40 Hill Street within the NStar easement. Twelve panel antennas would be installed below the existing antennas on the monopole, together with a 12 x 30 foot shelter, approximately 10 feet tall, on the ground, this shelter to be unmanned but checked monthly. The fenced equipment shelter is shown on the left side of Plan A1 provided to the Board, and lies on the opposite side of the tower from the existing equipment. A radio coverage map was presented to show that, although Verizon already has antennas at the Route 109 tower, there is a gap in coverage along the Medway-Holliston line, which the proposed antennas would remove. The shelter would contain a backup power generator and backup batteries sufficient to run the equipment for about eight hours in the event of failure of mains power. The generator would run for about 30 minutes per week to keep the battery charged. The equipment would normally run on standard 110 V mains power.

No equipment would be located outside the shelter, which would have two air conditioning units similar to domestic window air conditioning units. A noise analysis was presented. There would be a solid wall within the fence surrounding the generator, and cowlings on the air conditioning units. Applicant's representative noted that a temporary generator, installed on an as-needed basis, would generate far more noise.

All equipment would be at least 80 feet from the edge of the easement. The generator would be diesel fueled, with a capacity of 250 gallons, refilled about every six months during regular monthly maintenance. No DEP permit is required for the generator or fuel storage. The noise analysis presented took into account some of the existing Nextel equipment at the site. A load analysis is presently being conducted. A letter regarding control of the site is included with the application.

In response to questions from the public, applicant's representative stated that the batteries would be valve regulated lead acid batteries similar to conventional automotive batteries but with a gel electrolyte to prevent leakage; a description of such batteries was entered in the record of the hearing). The shelter is provided with containment wells below individual components and the shelter is steel and acts as a final containment structure for liquids with a capacity of 150% of the liquid used. The noise analysis presented does not allow for the possibility of a temporary generator at the Nextel facility. One wall of the shelter forms part of the fence; the remainder of the fence is about 4 feet from the shelter. There is no increase in height of the existing tower. Verizon has signed a lease with the Gallan's, the owners of the property, including a lease of the equipment space.

No one spoke in favor of the application. Mr. Charles Myers, of 9 Curtis Lane, spoke against the application. Mr. Myers urged the Board to restrict the type of ground equipment allowed. The subject site drains to Lake Winthrop, which is a watershed area. The application raises concerns about both noise and emissions from the diesel generator. A fuel cell solution to the provision of backup power is now available and has been tested by Verizon in other locations and should be used here.

David and Catherine Morgan, of 38 Hill Street, also spoke in opposition to the application, stating that the proposed structure looks like a power plant, would affect property values in the areas, is visible from a driveway and is close to wetlands. The particular site is close to houses and greatly affects four or five houses close to the tower. Landscape of the site has not been addressed.

In response to these comments, applicant's representative noted that access to the site is via a gated drive and snow removal is the responsibility of NStar. The site is

300 feet from the nearest wetlands, and the diesel fuel tank is double walled and double lined.

On a motion made, with the consent of applicant's representative, by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously, the hearing was continued to January 7, 2009 at 7:30 pm.

By unanimous consent, the application of Bedell was approved for advertising.

The Board then agreed unanimously to adjourn.

# **TOWN OF MEDWAY**

## **ZONING BOARD OF APPEALS**

### **MINUTES OF MEETING MARCH 5, 2008**

Members present were Mr. Musmanno, Mr. Cole, Mr. Flotta and Mr. Gluckler.

The meeting was called to order at 7:25 p.m. The Board agreed that its next meeting would be on April 2, 2008 at 7:15 p.m.

There being no objection from any member, the Board proceeded immediately to hear the application of Ms. Mosher Murphy, who appeared on her own behalf. Ms. Mosher Murphy stated that she had resided at 24 Milford Street for ten years, had kept dogs throughout that time and there had been no complaints from neighbors. There would be no commercial operations. There were presently four of her own dogs on the premises, and she wished to able to foster at least one more dog. The backyard is fenced. In response to a question from Mr. Thomas Fuller of 21 Milford Street, the applicant stated that she would not use the property she owned across the street from 24 Milford Street for keeping the dogs. The dogs are not allowed outside alone.

There were no public comments. Letters from Lucky Star Cavalier Rescue and VCA Heritage Hill Animal Hospital were read into the record. The applicant agreed that a permit for five dogs would be sufficient. One dog might be fostered, usually for not more than two months.

A motion to close the hearing was made by Mr. Biocchi, seconded by Mr. Cole and passed unanimously.

The Board then proceeded to consider the application of the Town of Medway, who were represented by Mr. D'Amico, Director of Public Works. Mr. Musmanno noted that was a problem in that the earlier part of the hearing on this application was heard by only four members, not all of whom were present for this continued hearing. Accordingly, it was agreed to further continue this hearing to the April 2 meeting.

There being no objection from any member, the Board proceeded immediately to hear the application of Ms. Shemuga, who appeared personally. The

applicant stated that she had for several years owned three toy poodles, which are small dogs normally weighing less than 10 lbs. She has fostered dogs for Medfield Animal Hospital and other shelters. A letter from the applicant was read into the record. The applicant stated that she fostered toy poodles for up to two months. She had occupied the premises since 2001 and there had been no complaints or action by the Animal Control Officer. The numbers of dogs fluctuated. The dogs were never outside unattended, and there was always an adult on the premises except for short periods for shopping or the like. The lot is just under 1 acre and there would be no commercial operations on the premises; all the dogs are spayed or neutered.

No members of the public were present during the hearing so there were no public questions or comments.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Flotta and passed unanimously.

A letter from the State Inspector General to the Town Administrator was, by unanimous consent, referred to the Board's Secretary for collection of data.

After correction of two minor errors, the Minutes of the January 16 meeting were approved 3-0, with Mr. Gluckler abstaining since he was not present at the January 16 meeting.

The Board then proceeded to deliberate on the application of Ms. Mosher Murphy, and voted unanimously to grant a kennel permit with certain conditions. Full details of the deliberations and the conditions attached are given in the Board's Decision.

The Board then proceeded to deliberate on the application of Ms. Shemuga, and voted unanimously to grant a kennel permit with certain conditions. Full details of the deliberations and the conditions attached are given in the Board's Decision.

The Board then unanimously agreed, by a roll call vote, to convene an executive session for the purpose of discussing pending litigation concerning Maritime Housing, with no intent to return to public session.

# **TOWN OF MEDWAY**

## **ZONING BOARD OF APPEALS**

### **MINUTES OF MEETING APRIL 2, 2008**

All five members of the Board were present.

The meeting was called to order at 7:20 p.m.

There being no objection from any member, the Board proceeded immediately to hear the application of Ms. Pamela DeForest, who appeared on her own behalf. Ms. DeForest stated that the premises at 144 Holliston Street comprised approximately one-half acre, and included a fenced pool area. The dogs were kept in the house or within the pool area. There was no intention to engage in any commercial use. The dogs were respectively 8, 7, 6 and 2 years old, and all were acquired within three months of birth. There had been no complaints or actions by the Animal Control Officer. The dogs were normally kept inside, but were allowed outside, within the fenced area, for short periods unattended while the owner was in the house. There was a substantial separation between the house and adjacent buildings. The dogs were two pugs, a dachshund and a Labrador/border collie cross; the last-mentioned was about 60 lb, the three others less than 25 lb each. All dogs were spayed or neutered, and all dogs were brought into the house at night and had assigned sleeping areas. Ms. DeForest was aware that one of her neighbors does not like dogs barking at her; when the dogs are barking, they are brought inside the house. The dogs are sometimes walked on a leash.

In response to a question from the audience, the Chairman noted that kennel permits are personal and limited to the person to whom they are issued.

Flo Carucci of 142 Holliston Street stated that she objected to the proposed permit because she objects to dogs barking when she goes to her mailbox or walks in her yard.

John McKearnan of 146 Holliston Street asked whether the proposed permit would allow commercial operations. The chairman stated that this, and other aspects of the permit, such as the number of dogs, were typically regulated by conditions attached to the permit. Mr. McKearnan stated that Nancy, his wife, was annoyed by dogs barking when she is in her own yard.



A motion to close the hearing was made by Mr. Biocchi, seconded by Mr. Flotta, and passed unanimously.

The Board then proceeded with the continuation of the application of the Town of Medway. The letter from the Design Review Committee (DRC) was entered into the record, together with an E-mail from Mr. Dan Hooper. Mr. David D'Amico and Mr. Paul Yorkis appeared on behalf of the Town. Mr. Yorkis pointed out that the form of the sign suggested by the DRC was incorrect since the bus service is not being provided by the "T" (i.e., the MBTA) but by GATRA; furthermore, the carpool lot is available for anyone to use, for example a group of friends carpooling to New York City. A discussion followed on whether the Town had adopted a policy on sponsored signs. It was suggested that the DRC could be regarded as a representative of the Town, but the question remained whether the DRC had endorsed this type of sign. In this connection, Mr. Yorkis directed attention to the third paragraph of the DRC letter.

Mr. Yorkis pointed out that the Bank is paying for the signs but the Town would perform the physical installation. The signs were intended to be permanent.

Mr. Jacob of the DRC stated that the Deck's role was to offer comments to Town Boards. The DRC has some angst over this matter; the DRC did not vote on whether sponsored signs were desirable. The Town Administrator was very much in favor of the proposed signs. The DRC would not have a problem changing the "T" logo. The DRC's recommended sign would allow passing motorists to see the "Park & Ride" wording, while motorists turning or stopped at the light would be able to read the sponsorship data. Ms. Affleck-Childs, Planning Board Assistant, introduced a March 8, 2008 memorandum regarding sponsorship.

Mr. D'Amico commented that there was a general sense that the proposed Park & Ride lot and the signs were a good thing. The directional signs would necessarily be present; some acknowledgement of the Bank's role is reasonable. As the DPS Director, it was not Mr. D'Amico's role to make policy on advertising but the Town Administrator is in favor, and the present application was developed with input from the Zoning Enforcement Officer.

Mr. Yorkis noted that he had met with the Town Accountant and confirmed that the cost of paving the proposed lot was far in excess of \$5,000, and there

was no problem with procedure. Town Counsel had advised that the proposed deal did not violate state law. The Fire Chief was comfortable with the proposed lot, and the locations of the two signs were determined by the Safety Officer.

Mr. Dan Hooper of the Planning Board stated that he was not in favor of the application for the reasons already stated. The project was good, but the location was not, and it appeared that the project was almost an opportunity to create advertising signing.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Flotta and passed unanimously.

The Board then proceeded to hear the application of the Marian Community. On behalf of the Community, Mr. Proia stated that the Planning Board was being cooperative and enforcing the Zoning ByLaw in a manner consistent with the Dover Amendment, and therefore this appeal would probably become moot. Accordingly, the Community requested a continuance. A motion to continue the hearing to May 21 at 7:30 pm was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously.

The Planning Board Assistant then introduced the various proposed Articles revising the Zoning ByLaw. On the proposed Amendment of Districts Commercial II and AR II, two members of the Board registered strong opposition. With regard to the proposed Amendment of Industrial District I, the Board enquired why the whole District could not be so rezoned. On the proposal to merge the Commercial I and II Districts, the question was raised why Commercial District VI could not be included. It was suggested that the special permit needs to be kept separate from the site plan review. The language in Sections 2(d) and (e) needed cleaning up, and in 3(g) the term "vary" could include an increase.

The Board then proceeded to deliberate on the application of Ms. DeForest, and voted 4:1 (Mr. Flotta dissenting) to grant a kennel permit for not more than four dogs subject to certain conditions. Full details of the deliberations and the conditions attached are given in the Board's Decision.

The Board then proceeded to deliberate on the application of the Town of Medway. A motion was passed 3:1 (Mr. Biocchi dissenting) that the petitioner failed to demonstrate circumstances relating to shape, topography etc. sufficient to justify a

variance. Accordingly, a motion to deny the variance was passed by the same margin. A motion to find that grant of an appropriately conditioned special permit would not be detrimental to the public good failed to pass on a 2:2 vote with Mr. Cole and Mr. Biocchi in favor. Accordingly, a motion to dismiss the application for a special permit without prejudice was passed 3:1, with Mr. Biocchi dissenting. Full details of the deliberations and the conditions attached are given in the Board's Decision.

**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING MAY 21, 2008**

Present were Messrs. Cole, Gluckler and Flotta.

The meeting was called to order at 7:25 p.m.

The Minutes of the Board Meetings of March 5 and April 2, 2008 were approved unanimously.

Since only three members of the Board were present, the Board was unable to hold any hearings. Accordingly, on a motion made by Mr. Cole and seconded by Mr. Gluckler, it was agreed unanimously to postpone all hearings scheduled for this meeting to the same times on June 4, 2008.

The Board then agreed unanimously to adjourn.

**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING JUNE 18, 2008**

Present were Messrs. Musmanno, Cole, Gluckler and Flotta.

The meeting was called to order at 7:25 p.m.

There being no objection from any member, the Board proceeded to hear the application of Mr. Barstow, who appeared on his own behalf.

Mr. Barstow stated that the existing stairs extended out 7 feet from the front of the dwelling, leaving 14 feet to the street over a swale. The proposed new porch would only extend out 5 feet from the front of the dwelling. The applicant had approached the Zoning ByLaw Enforcement Officer (ZBEO) but was directed to the Zoning Board of Appeals and hence there was no decision by the ZBEO. The proposed porch would extend the full 20 foot width of the house and would be covered; the existing stairs are not covered. The adjacent houses do not appear to conform to the front setback required by the Zoning ByLaw. A neighbor has a porch which is flush with the edge of the house, with stairs descending to the street. With regard to the conditions required for granting a variance, the applicant noted that the swale contained a large amount of water when it rained, and in winter snow built up around the existing stairs. The porch would be a typical farmer's porch with a roof. The existing front door constrains the location of the stairs and provides a need for a landing to permit a turn on to the proposed stairs.

There were no questions from the general public.

Ms. Kathleen Hickey of 3 Narragansett Street spoke in favor of the application. She stated that the existing dwelling was an original 1920's park house worthy of preservation. The old drain at the lower end of the street had not been maintained and was now blocked. In heavy rain, the resultant ponding flooded parts of 3 and 4 Narragansett Street, with water building up past the stairs, and with similar snow banks in winter.

A motion to close the hearing was made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Dr. Carchidi, who appeared in person. Dr. Carchidi stated that the ramp shown on the plans was already present. The proposed vestibule, which was needed to enable patients to access the rear parking lot directly from the office without working along a relatively narrow driveway alongside the office, could not be moved sideways because of an adjacent bulkhead. The applicant had no objection to the application being considered for a special permit under Article V.D.4(a) of the ByLaw. Access to the rear parking lot was via a shared driveway over Lot F under an easement.

There were no questions or comments from the general public.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Flotta and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the continued application of Marion Community. The chairman stated that there had been no change in status of the application, nor any written input. A motion to dismiss the application without prejudice was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the continued application of Mr. Bruce. A motion was made by Mr. Flotta and seconded by Mr. Musmanno that grant of the requested special permit would not cause substantial detriment to the public good. The motion failed on a 2-2 vote, with Mr. Cole and Mr. Gluckler voting in favor of the motion, and Mr. Musmanno and Mr. Flotta against. Consequently, the Board decided unanimously to dismiss the application.

The Board proceeded to deliberate on the application of Dr. Carchidi. A motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that the proposed structure would not increase the extent of non-conformity in any substantial way. A second motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that the proposed alteration would not be substantially more detrimental to the neighborhood than the existing building. Finally, a motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to grant a special permit to the applicant under Article V.D.4(a) of the ByLaw to construct a

vestibule and stairway in accordance with the supplied plans. Full details of the Board's findings and the special permit are given in the Board's Decision.

The Board then proceeded to deliberate on the application of Mr. Barstow. A motion was made by Mr. Cole and seconded by Mr. Musmanno to find that the ponding of water on the subject lot, and especially around the existing stairway, is a topographic condition which does not generally affect lots in the subject district. After some discussion, a motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to lay the preceding motion on the table in order that the Board members could inspect the subject lot.

The Board then unanimously agreed to deliberate on the application of Mr. Bruce. The Board voted unanimously (a) that the subject lot is unusually small owing to apparent conveyance of a substantial portion of the lot to the rear; (b) that the petitioner failed to demonstrate substantial hardship arising from these circumstances; (c) that in the light of the foregoing findings, the Board denied the petition for a variance; (d) that the proposed reduction in rear setback would not render resulting setback significantly different from rear setbacks on adjacent lots. A motion was made by Mr. Cole and seconded by Mr. Flotta to find in view of foregoing finding proposed relief would not be detrimental to public good. A motion was then made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously to put the foregoing motion on the table to enable the Board members to inspect the relevant area. The meeting was then recessed for about 20 minutes while the Board members inspected the subject lot.

After return from recess, a motion was made by Mr. Cole, seconded by Mr. Gluckler and passed unanimously to take the previously mentioned motion from the table. Comments were made that it was not clear from the inspection that ponding was a problem (the inspection has taken place at the end of a significant rainfall), and that no true swale appeared to be present at the front of the lot. A motion was made by Mr. Cole and seconded by Mr. Musmanno to find that the applicant had failed to demonstrate conditions relating to the shape, topography or soil conditions on the subject lot which did not generally affect other lots in the Zoning District, and had failed to demonstrate a hardship sufficient to support the requested variance. During discussion it was noted that it would be difficult to justify the full extent of the proposed porch even if a hardship

were found. The motion was passed unanimously, and the Board unanimously dismissed the petition for a variance.

The application of Army Point Communications was noted, and the Secretary was asked to check whether this application now fell within the jurisdiction of the Planning Board rather than the Zoning Board of Appeals. If it still fell with the present Board's jurisdiction, there was unanimous agreement that there was no objection to advertising this application.

The minutes of the meeting of June 4 were adopted unanimously.

The Board then agreed unanimously to adjourn.



**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING JUNE 4, 2008**

Present were Messrs. Musmanno, Cole, Gluckler and Flotta.

The meeting was called to order at 7:20 p.m.

There being no objection from any member, the Board proceeded to hear the application of Mr. Dennis Murphy. Mr. Daniel Wolff appeared on behalf of Mr. Murphy.

Mr. Wolff stated that the existing buildings were highly non-conforming and in one place appeared to extend over the lot line. It is proposed to remove all existing buildings, and the new building will meet all setback requirements. The only remaining issue for which a special permit is sought is the lot size, which is smaller than the 40,000 square feet required by the Zoning District.

The area around the new building would be heavily landscaped, and the new building would be stick built in the New England style. One adjacent lot is one of the small "bottlecap" lots and its present ownership appears uncertain. The proposed building would replace a non-conforming with a conforming use. The building would have eight employees, so the Zoning ByLaw requires eight parking spaces, whereas ten are in fact being provided.

There were no questions or comments from the general public.

A motion to close the hearing was made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously.

There being no representative of the Marion Community present, that application was laid on the table.

There being no objection from any member, the Board next proceeded to hear the application of Mr. Richard Bruce, who appeared in person. Mr. Bruce stated that the rear lot was split off from the lot forming the subject of this application before 1952, and thus before zoning was in force in Medway. Since that time, the present lot had been owned by his parents and since about 1989 or 1990 by himself. There had been no contact with the rear neighbors regarding this application. The height of his dwelling was

about 13-14 feet, and the house on the rear lot was only about 10 feet from the property line. The dwelling on the Graham lot shown on the submitted plan was setback from the side lot line by about the width of the driveway on the other side. Mr. Bruce represented that the whole area was one with dwellings on small lots and often close to the lot lines.

There were no questions or comments from the general public.

A motion to close the hearing was made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Amersign, on whose behalf appeared Messrs. Jim Butler and Matt Herman, the latter being the store owner. The representatives of the applicant stated that the store 200-300 feet from the street, and although the Medway Plaza Shopping Center in which the store was located had an existing pylon sign, there was no room thereon for additional signs. The existing sign is 16.4 square feet; the check mark incorporated in the new sign adds about 6 square feet to the sign's area.

There were no questions from the general public. One member of the public spoke in favor of the application; no one spoke against.

A motion to close the hearing was made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously.

The Board then proceeded to deliberate on the application of Mr. Murphy. Having found unanimously that the proposed use was conforming and therefore the extent of non-conformity was decreased, that the proposed construction reduces the extent of dimensional non-conformity, and that the proposed alteration was not substantially more detrimental to the neighborhood than that which currently exists, the Board decided unanimously to grant a special permit to operate a single story office building at 133 Milford Street substantially in accordance with the plans provided. Full details of the Board's findings and the special permit are given in the Board's Decision.

The Board then unanimously agreed to deliberate on the application of Mr. Bruce. The Board voted unanimously (a) that the subject lot is unusually small owing to apparent conveyance of a substantial portion of the lot to the rear; (b) that the petitioner failed to demonstrate substantial hardship arising from these circumstances; (c) that in the light of the foregoing findings, the Board denied the petition for a variance; (d) that the

proposed reduction in rear setback would not render resulting setback significantly different from rear setbacks on adjacent lots. A motion was made by Mr. Cole and seconded by Mr. Flotta to find in view of foregoing finding proposed relief would not be detrimental to public good. A motion was then made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously to put the foregoing motion on the table to enable the Board members to inspect the relevant area, with deliberations to resume at a later date.

The Board then unanimously agreed to deliberate on the application of Amersign. The members felt that the pylon sign obviated the long setback from the road, and that distribution of space on the pylon sign was a matter between the applicant and its landlord. A motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to find that the applicant had failed to demonstrate conditions relating to the shape, topography or soil conditions on the subject lot which did not generally affect other lots in the Zoning District. The Board then, on a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, dismissed the petition for a variance.

The minutes of meetings on April 16 and May 21 were adopted unanimously, except that Mr. Musmanno abstained on the latter vote since he was not present at the relevant meeting.

The Board then agreed unanimously to adjourn.

**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING AUGUST 6, 2008**

Present were Messrs. Musmanno, Cole, Gluckler and Flotta.

The meeting was called to order at 7:20 p.m.

Since this was the first Meeting of the Board following the recent appointment of members, the Board proceeded to reorganize. Mr. Musmanno was nominated for chairman by Mr. Cole and seconded by Mr. Flotta. There being no other nominations, Mr. Musmanno was elected by a vote of 3-0, with Mr. Musmanno abstaining.

Mr. Cole was nominated for clerk by Mr. Musmanno and seconded by Mr. Gluckler. There being no other nominations, Mr. Cole was elected unanimously.

The Board unanimously adopted the Minutes of the meeting of June 18, 2008 with one minor amendment.

There being no objection from any member, the Board proceeded to hear the application of Mr. and Mrs. DeSimone; Mr. DeSimone appeared on his own behalf. Mr. DeSimone stated that proceeding to divide the lot in accordance with Planning Board regulations would require a road extension and turning circle, construction of which would cost \$40-60K plus a bond which the applicants could not afford, and a lot cannot be released without bond or road construction. When the existing sub-division was constructed, the length of a cul-de-sac was limited to 450 feet, and this distance fixed the location of the existing turning circle. Mr. Musmanno enquired why zoning relief is a proper remedy for a procedural problem, and Mr. DeSimone replied that this was the only relief he could seek without losing his house.

There were no questions or comments from members of the public present, but a letter from the Streifers of 38 Farm Road opposing the Petition was read into the record. Mr. Tom Gay appeared on behalf of the Planning Board and stated that the required 18 feet road width is a safety issue and that the Planning Board is very much opposed to the creation of non-conforming lots.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Ms. Lorilyn Sallee, who appeared in person. Ms. Sallee stated that the lot to which the application related was a two-family house. For the last four years, one unit had housed three licensed dogs and the other two licensed dogs, but this year upon attempting to renew her dog licenses she had been told that a kennel permit was required for the present number of dogs. The lease of the second unit does not contain any provisions regarding pets. There is a fenced area in the back of the house for the dogs, who are not allowed out when no-one is home. There would be no commercial activities in connection with the dogs. A permit is sought for 5-7 dogs in case the applicant needs to foster one or two extra dogs. Her own dogs included two mutts of about 70 and 40 lbs respectively and an Australian cow dog of 35-40 lbs; the other unit has a similar Australian cow dog and a Chinese crested dog of about 80 lbs. The dogs have been present since 2004 and neither the applicant nor the Animal Control Officer has received any complaints.

Mr. Barry Zyler of 15 Cottage Street enquired whether a kennel license can restrict the number of dogs, and was it transferable to a new owner. Mr. Musmanno replied that the Board could impose control of the number of dogs and the permit is not transferable. Ms. Karen Travers asked why a kennel permit was required if there was no increase in the number of dogs. Mr. Al Goburn enquired if the dogs caused a problem what was the neighbors' recourse. Two members of the public spoke in favor of the application provided the permit was limited to 5 dogs and there was no breeding. No one spoke against the application.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Flotta and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Mr. and Mrs. Garron; Mr. Garron appeared on their behalf. The applicant stated that the proposed accessory unit would be occupied by his mother-in-law. The Zoning Enforcement Officer states that the Board does not need to consider the front setback problem. The applicant presented plans showing a raised ranch with an auxiliary

family dwelling unit (AFDU) on the first floor, with the main unit on the second floor. This ranch would be on a slab, and there would be a side entrance for the AFDU. There were no public questions or comments except for a letter from the Hoopers of 6 Naumkeag Street in favor of the application.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Flotta and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Mr. and Mrs. Tetrault, on whose behalf Mr. Thomas McLaughlin appeared. Mr. McLaughlin noted that when the existing two-family special permit was granted in 1994, there was no provision for an AFDU petition. In 2003, the Zoning ByLaw was amended to provide for such a petition. The existing unit conforms to all AFDU requirements. There is no change to the addition or to the character of the building. Entry to the auxiliary unit is through the garage of the main dwelling. The owners have no desire to mislead potential purchasers and are willing to have the existing two-family special permit of 1994 voided. There was no purchase-and-sale agreement existing.

The occupants of 19 Guernsey Street spoke in favor of the petition; no one spoke against.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously.

After a brief recess, the Board agreed unanimously to deliberate on the application of Mr. and Mrs. DeSimone. A motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that the petitioner has demonstrated that the parcel could be divided into two conforming lots. A second motion was made by Mr. Cole and seconded by Mr. Flotta to find that the petitioner failed to demonstrate hardship due to shape, topography and soil conditions on the lot. Mr. Musmanno, seconded by Mr. Cole, then moved that the previous motion to place on the table moved to find that the hardship petitioner described related to his personal condition, not to the conditions of the lot. This motion was passed unanimously. Mr. Musmanno then moved to take the previous motion from the table and it was passed unanimously. Finally, a motion was

made by Mr. Cole, seconded by Mr. Flotta and passed unanimously that, in view of the foregoing findings, the petition be dismissed with prejudice.

The Board then proceeded to deliberate on the application of Ms. Sallee. A motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that an adequately limited kennel license would not be detrimental to the public good. A motion was made by Mr. Cole and seconded by Mr. Musmanno to grant a kennel license subject to conditions, which were agreed as follows:

1. There shall not be more than five dogs total in all residences on the premises at any one time (made by Mr. Musmanno, seconded by Mr. Cole and agreed unanimously);
2. The privileges of the license shall be limited to the keeping of domestic pets owned by residents (made by Mr. Cole, seconded by Mr. Flotta and agreed unanimously); and
3. No dogs shall be left outside unattended (made by Mr. Flotta, seconded by Mr. Gluckler and agreed unanimously).

The final vote to grant the permit with these conditions was made unanimously.

The Board then unanimously agreed to deliberate on the application of Mr. and Mrs. Garron. A motion was made by Mr. Cole, seconded by Mr. Musmanno and agreed unanimously to find that grant of an auxiliary family dwelling unit special permit to the applicants substantially in accordance with plans presented would not cause substantial detriment to the public good. A further motion was then made by Mr. Cole, seconded by Mr. Gluckler and passed unanimously to grant an auxiliary family dwelling unit special permit to the applicants subject to the conditions that the dwelling entrances, room arrangements and approximate dimensions be substantially in accordance with the plans provided, and that the portion of the building facing Mishawam Street substantially conform to the front elevation provided.

The Board then unanimously agreed to deliberate on the application of Mr. and Mrs. Tetrault. A motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to find that grant of an auxiliary family dwelling unit special permit to the applicants substantially in accordance with the application would not cause

substantial detriment to public good. A further motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to find that the use of the premises since about 1994 under the existing two family special permit has been substantially that of a main dwelling unit with an auxiliary family dwelling unit attached thereto. A motion was then made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that grant of a permit in accordance with the petition does not contradict the action of this Board taken on December 7, 1994. Finally, a motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to vacate the special permit issued by this Board on December 7, 1994 and issue special permit to petitioners for an auxiliary family dwelling unit in accordance with the petition.

The Board then reviewed petitions received and determined to reject the application of Chesmore unless more information was supplied which, at the discretion of the Chairman, would render the information sufficient. The applications of Kevin and Donna O'Connor and Mr. Jordon were accepted. It was noted that the Army Point Communications application had been withdrawn.

The Board set its next meeting for September 3, and then agreed unanimously to adjourn.





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**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**  
**MINUTES OF MEETING OCTOBER 1, 2008**

Present were Messrs. Musmanno, Cole, Biocchi, Gluckler and Ms. Gould.

The meeting was called to order at 7:20 p.m.

On a motion made by Mr. Musmanno and seconded by Mr. Flotta, the Board voted 4-1 to adopt the Minutes of the September 3, 2008 meeting as presented by the Clerk; Mr. Biocchi abstained since he was not present at the earlier meeting.

There being no objection from any member, the Board proceeded to hear the application of Ms. Leeper, who appeared on her own behalf.

Ms. Leeper stated that the proposed kennel license was not intended for breeding purposes. The dogs are a bichon fries (7 years old), about 8 lbs, a yellow labrador (7 years old), 75 lbs, a standard poodle (3 years old) and a weimaraner (just below 2 years old). When outside are confined with an area marked off by partial vinyl fencing and hidden electric fencing; the vinyl fence extends from the house to the side lot lines, with front and rear yard electric loops. The applicant has resided at the present address for several years and there have no complaints to neighbors or the Animal Control Officer. The lot is 1.01 acres, with  $\frac{3}{4}$  acre lawn area. All dogs are spayed or neutered and are largely indoor dogs, and are not left outside unattended. Petitioner was specifically asked if she had knowledge of any complaints and replied that she did not.

There were no questions from the public. Ms. Christen Creeden of 12 Hickory Drive spoke in favor of the application, stating that she did not know until recently that there were four dogs in the house. No one spoke in opposition to the application.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Metro PCS Massachusetts LLC. The application was stated to relate to provision of six panel antennas on the existing 140 foot tower. There would be four outdoor cabinets on the ground, two battery and two equipment, connected to the

antennas via a coaxial cable within the tower. There would be no increase in height or lateral extent of existing tower; the new antennas would fit at the 122.5 foot level below the second (from top) existing sets of antenna. Stress analysis of the load imposed by the new antennas is still on-going. There would be a small cooling unit similar to a computer fan on two of the cabinets, which would emit about 52 dB at 10 feet away. The cabinets would require 200 amp service at 120 Volts, and the cabinets would be 115 from the property lines. There would no emergency generator; the batteries provide 8 hour backup power. Each of the six new antennas weight 18 lb.

There were no questions, statements or correspondence from the general public.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Ms. Janice Kopacz, who appeared in person together with Mr. Bill Hempstead. Ms. Kopacz stated that there would be no change to footprint of the structure, all of which was already present. The plan presented represents the second floor layout. The stairway needs to be altered to conform to the Building Code. The rear exit door leads to the enclosed porch. The house is 34 x 26 feet, and the bedroom closet 8 x 4 feet. The lot is about 12,000 square feet with a total frontage of about 200 feet on both Coffee Street and Lee Lane. There are no existing variances or special permits. The upper story is a recent addition and an extension of the ground floor is needed to allow clearance for the stairs. The auxiliary family dwelling unit will be occupied by the applicant's mother. There have been no changes in the parcel since the 2006 ZBA decision. The driveway will be extended from Coffee Street to Lee Lane to provide parking for three cars.

There were no questions, statements or correspondence from the general public.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously.

After a brief recess, the Board agreed unanimously to deliberate on the application of Metro PCS. A motion was made by Mr. Musmanno, seconded by Mr.

Biocchi and passed unanimously to find that the applicants met all the requirements of Article V-S of the Zoning ByLaw. A second motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to find that, suitably conditioned, the proposed modification would not cause substantial detriment to the public good. Accordingly, a motion was made by Mr. Cole, seconded by Mr. Musmanno, and passed unanimously to grant Metro PCS a special permit to add antennas and ground equipment in accordance with the plans presented, subject to the following conditions (the proposers and seconders of each condition appear after the condition; both conditions were agreed unanimously):

(a) the petitioner shall provide a certification from a professional engineer that the tower can accept the increased structural loadings of the proposed modification; (Gluckler/Biocchi); and

(b) the petitioner shall demonstrate to the satisfaction of the Zoning Enforcement Officer that the proposed modification will not result in a violation of the noise requirements of Article V-B-2 of the Zoning ByLaw (Cole/Musmanno)

The Board proceeded to deliberate on the application of Ms. Leeper. A motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to find that the grant of a suitably conditioned special permit would not cause substantial detriment to the public good. A second motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to grant Ms. Leeper a kennel license subject to the following conditions (the proposers and seconders of each condition appear after the condition; all conditions were agreed unanimously):

(a) not than 4 dogs shall reside at the premises (Musmanno/Cole);

(b) dogs shall not to be left outdoors unattended (Musmanno/Biocchi); and

(c) the privileges of this license are limited to keeping domestic pets owned by residents (Musmanno/Biocchi).

The Board then unanimously agreed to deliberate on the application of Ms. Kopacz. A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the petitioner failed to demonstrate that the conditions resulting in this Board's decision of September 6, 2006 relative to this site have substantially changed. A second motion was made by Mr. Cole, second by Mr. Musmanno and passed

unanimously to deny the requested special permit for the reasons stated in the foregoing finding.

On a motion by Mr. Musmanno seconded by Mr. Biocchi, the Board approved the Minutes of its September 3, 2008 meeting as presented by the Clerk; the vote to approve was 4-0 with Ms. Gould abstaining as she was not present at the earlier meeting.

The Board reviewed a letter from Delphic associates requesting an extension to their Section 40(b) permit. The Board agreed unanimously that this was a minor change and elected to act immediately. On a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board agreed to amend its decision of October 19, 2005 to Rice Associates by adding as Condition 24, "This permit shall lapse if the use does not commence on or before November 5, 2010."

By unanimous consent, applications of Giovangelo, J Lee and Cantrell were approved for advertising.

The Board then agreed unanimously to adjourn.



## **TOWN OF MEDWAY**

### **ZONING BOARD OF APPEALS**

#### **MINUTES OF MEETING NOVEMBER 5, 2008**

Present were Messrs. Musmanno, Cole and Flotta and Ms. Gould.

The meeting was called to order at 7:25 p.m.

Mr. Musmanno reported receiving a letter from the Town Administrator which indicated that Mr. Flotta had not written to request reappointment. Mr. Flotta indicated that this was incorrect and stated that he would advise the Town Administrator to this effect.

There being no objection from any member, the Board proceeded to hear the application of MetroPCS, on whose behalf Mr. Walsh appeared. Mr. Walsh stated that the application related to installing, at the 107 foot level on the existing tower at 61R Milford Street, three antennas, together with a coaxial cable extending down within the tower to a 10 x 16 foot leased area provided with a 9 x 15 concrete pad. There would be no enclosure but four outdoor, self-cooling cabinets would be installed on the pad inside a fenced area. The fact that the antenna panels, which has a total power of 700 W, are on the tower rather than the mast makes no difference to the load analysis. Access to the location is already available and the additional equipment would require about one visit per month for maintenance. A noise analysis was presented showing that the requirements of the Zoning ByLaw were met.

There were no questions or statements from the public.

A motion to close the hearing was made by Mr. Flotta, seconded by Mr. Cole and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Ms. Judith Giovangelo, who appeared in person. The dogs residing on the premises are all Yorkshire terriers. The premises are a two family home, and the present owners use the entire home, there being no tenant. The petitioner is involved in animal rescue. The petitioner only requested a permit for four dogs. The lot is located at the corner of Temple Street and Route 109, and there is a fenced-in area for the dogs at the side, approximately 20 x 50 feet. None of the dogs exceed 20 lb. and there

have been no complaints from neighbors to the applicant or the Animal Control Officer. The house stands a substantial distance away from its neighbors, and the applicant would not have a problem with a permit conditioned on the dogs not being left outside unattended.

In response to a question from Mr. Lester Seal of 4 Temple Street, the Chairman stated that any permit would be personal to the petitioner and would not pass to a subsequent purchaser of the lot, and that the Board could, and usually did, impose conditions on kennel permits. Ms. Karen Carr of 175 Village Street spoke in support of the application; no one spoke in opposition.

A motion to close the hearing was made by Mr. Flotta, seconded by Mr. Cole and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the application of Ms. Charlene Casucci and Ms. Caryn Cantrell, who appeared in person. Ms. Casucci stated that a permit was sought for the raising of Chihuahuas, which were not allowed outside except in a carriage. The subject premises is a two family house (up and down), occupied by two separate families, and owned by Ms. Casucci's son, who does not reside on the premises. Two litters have been raised and sold to date, with 3 and 1 puppies respectively. The puppies are sold by means of a want ad or sign outside the premises, and are sometimes pre-sold. There is at present one breeding female, with a total of six dogs between the two families, plus perhaps three puppies at any one time. A permit limited to seven dogs should suffice, and the applicants would not object to limits on the size of the dogs or to a condition that they not be left outside unattended.

Mr. Steven Kenney, who occupied an adjacent law office, queried whether it would be possible for the Board to impose a limit on sales of dogs per year, perhaps six dogs per year.

The Animal Control Officer (ACO), Ms. Hamlin, spoke in opposition to the application. The ACO stated that Ms. Casucci had been breeding cats for some time. On a casual meeting in the street, Ms. Casucci had advised the ACO that she was over the three dog limit permitted by the Zoning ByLaw. The ACO had previously been led to believe that there was only one adult dog on the premises, and only discovered during the present hearing that there were in fact six rather than four dogs. In the ACO's opinion, Ms. Casucci has not been forthright and truthful with the ACO, and apparently it not able



to detect when dogs come into heat, resulting in one breeding female having two litters too close together. There are also nine cats on the premises. Ms. Casucci has a Board of Health permit for more than six cats, and there are now two unsprayed female dogs on the premises. The ACO had no objection to personal pets, say seven dogs, and had no problems with the reality as opposed to her concerns about the applicants' breeding of dogs.

Mr. Kenny then expressed concerns about enforcement of any permit granted; was there any reporting requirement? The ACO pointed out that under M. G. L., Chapter 140, a kennel permit requires the ACO authority to check the premises once per year, or upon receipt of a complaint or concern. The ACO further noted that if the buyers acquire papers for the dogs, as they would usually do, the American Kennel Club records provide a check on the number of litters sold by any breeder each year.

Ms. Casucci stated that the breeding female did have an accident so that she had two litters this year. The premises had undergone a Board of Health inspection in February 2005 with the ACO present. The applicants may wish to get out of breeding in about two years and get into fostering dogs.

A motion to close the hearing was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously.

On a motion by Mr. Musmanno seconded by Ms. Gould, the Board approved the Minutes of its October 1, 2008 meeting as presented by the Clerk, with two minor corrections; the vote to approve was 3-0 with Mr. Flotta abstaining as he was not present at the earlier meeting.

The Board agreed unanimously to deliberate on the application of Metro PCS. A motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to find that the applicants met all the requirements of Article V-S-2 of the Zoning ByLaw. A second motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to find that grant of a suitably conditioned permit would not cause substantial detriment to the public good. Accordingly, a motion was made by Mr. Cole, seconded by Mr. Musmanno, and passed unanimously to grant Metro PCS a special permit to add antennas and ground equipment in accordance with the plans presented, subject to the following condition:

(a) the petitioner shall provide a certification from a professional engineer that the tower can accept the increased structural loadings of the proposed modification; (condition proposed by Mr. Cole, seconded by Mr. Flotta and passed unanimously).

The Board proceeded to deliberate on the application of Ms. Giovangelo. A motion was made by Mr. Cole, seconded by Mr. Flotta and passed unanimously to find that the grant of a suitably conditioned kennel permit would not cause substantial detriment to the public good. A second motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to grant Ms. Giovangelo a kennel license subject to the following conditions (the proposers and seconders of each condition appear after the condition; all conditions were agreed unanimously):

(a) the privileges of this license are limited to keeping domestic pets owned by residents (Musmanno/Flotta).

(b) dogs shall not to be left outdoors unattended (Musmanno/Flotta); and

(c) not more than 4 dogs, each weighing not more than 20 lb., shall reside on the premises (Musmanno/Flotta).

The Board then unanimously agreed to deliberate on the application of Ms. Casucci and Ms. Cantrell. A motion was made by Mr. Flotta, seconded by Mr. Cole and passed unanimously to find that the petitioner failed to demonstrate that proposed breeding operation would not cause substantial detriment to the public good. A second motion was made by Mr. Flotta, seconded by Mr. Musmanno and passed unanimously to find that grant of a suitably conditioned special permit for a limited kennel license would not cause substantial detriment to the public good. Accordingly, a motion was made by Mr. Flotta, seconded by Mr. Musmanno and passed unanimously to grant a special permit for a kennel license to the petitioners located at 175 Village Street subject to the following conditions (the proposers and seconders of each condition appear after the condition; all conditions were agreed unanimously):

(a) not more than seven dogs of any age shall reside on the premises (Flotta/Gould);

(b) no dogs are to be left outside unattended (Flotta/Gould);

(c) the privileges of this license are limited to keeping domestic pets owned by residents (Flotta/Gould);

(d) the petitioners shall be permitted to raise and sell one litter of puppies provided that any dogs in excess of the seven permitted must be removed from the premises by the time they reach the age of six months, and further provided that the petitioners notify the Animal Control Officer within ten days of the birth of the litter (Flotta/Cole); and

(e) none of the dogs shall weigh more than 10 lb (Flotta/Cole).

By unanimous consent, the application of Cellco was approved for advertising, and the next meeting of the Board was set for December 3, 2008 at 7:15 pm.

A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed by a vote of 3-0 (Mr. Flotta abstaining), to recommend to the Town Administrator that Mr. Flotta be reappointed as a member of the Board. A second motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to recommend to the Town Administrator that Ms. Gould be appointed a full member of the Board.

The Board then agreed unanimously to adjourn.