

TOWN OF MEDWAY

ZONING BOARD OF APPEALS

MINUTES OF MEETING JANUARY 16, 2013

Messrs. Cole and Biocchi, and Ms. Doherty and Ms. Gould were present when the Clerk called the meeting to order at 7.48 p.m.

A motion was made by Ms. Doherty, seconded by Ms. Gould and passed unanimously to accept the Minutes of the December 19, 2012 meeting of the Board as presented by the Clerk.

By unanimous consent, the new application of Mr. Symonds was accepted for advertisement and hearing.

Mr. Musmanno then joined the meeting at 7:56 p.m.

By unanimous consent, the new application of Mr. Marcel was accepted for advertisement and hearing.

The Board then proceeded, by unanimous consent, to hear the applications of Flying Fur, Inc, on whose behalf appeared Cathy Elia, Esq., accompanied by Mr. Vander Barbosa, President of Flying Fur. Ms. Elia confirmed that the applicant had no objection to the two applications being heard jointly or to the issue of a joint decision.

Ms. Elia stated that the present use was a pre-existing non-conforming use and that the proposed use would not be more detrimental to the neighborhood than the present use. The applicants run an existing business in Medway which seeks to expand. The applicants propose to install a solid fence between the two existing buildings to avoid visual distraction of the dogs and hence reduce barking. There would be no overnight boarding of dogs; the hours of operation sought were 6 am to 7 pm weekdays and 6 am to 6 pm Saturdays.

The property is presently under a purchase-and-sale agreement so Flying Fur cannot apply for a building permit. The existing non-conforming use is a retail furniture store.

When questioned about the absence of a kennel permit for the existing business, Ms. Elia stated that the present applicants did not realize that they needed a kennel permit at their present location. The Board took note of a letter from the Animal

Control Officer stating that no complaints had been received about the applicants' existing business. Ms. Elia noted that the L-shaped area for outside exercise of dogs is about 5000 square feet, and they there would not be more than 50 dogs on the premises at any one time.

Board members enquired what would happen if a client does not return to collect their dog by the 7 p.m. closing time. Mr. Barbosa replied that this rarely happened (Flying Fur impose substantial extra fees for late pick-ups) but if it did the last employee on the premises would take the dog home; the dog would not be left on the premises overnight.

The Chairman than opened the floor for questions from the public. Mr. Michael Cannistraro of 133 Main Street asked what happened to outside dog waste. Mr. Barbosa stated that the dogs were not left outside without an attendant who cleans up continuously; the exercise area would be surfaced with woodchip mulch to avoid run-off. Mrs. Angela Cannistraro of the same address asked how many dogs would be outside at one time, and was advised that the application specified a limit of 10. Mr. Paul King asked if there would be difficulty with cars attempting to leave the parking lot; the applicants noted that there is approximately a two hour window morning and evening for people dropping off and picking up dogs, with occasional traffic throughout the day for the grooming business.

Public comments for or against the application were then invited. Mr. Giovangelo of 144 Main Street stated that he had no problems with the proposed kennel.

In response to a final question from the Board, the applicants stated that there would be additional lighting but only over the exercise area as shown on the plan submitted.

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

The Board proceeded by unanimous consent to hear the application of Mr. McNally and Ms. Cooke; only Mr. McNally actually appeared. Mr. McNally explained that each applicant had two dogs when they moved to Medway, and he frankly admitted that he did not know what they would do if one dog died. The dogs are two chihuahuas, an 8 year old labrador and an 8 month old boxer. The Board took note of a letter from the

Animal Control Officer stating no objections to the proposed kennel permit. The applicant further stated that all the dogs were kept indoors, with a fenced backyard used for exercise; neither applicant had received any complaints from neighbors. The lot is almost two acres, with the fenced backyard being approximately 100 foot square. The closest house to the fenced area is 20 Broken Tree Road, the lot line of which is 20 to 30 feet from the fenced area. The applicants keep the dogs only as domestic pets and would have no objection to a condition in the permit barring commercial activities. There are no known neighbors with kennel permits.

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

The Board then proceeded by unanimous consent to immediate deliberation on the application of McNally and Ms. Cooke. A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that grant of a suitably conditioned kennel permit would not cause substantial detriment to the public good. A second motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that grant of the requested kennel permit would be consistent with the guidelines for special permits set out in Article III.J of the Zoning ByLaw. Accordingly, a further motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to grant a kennel permit to the applicants subject to the following terms and conditions:

- (a) the permit shall be limited to domestic pets owned by residents of the subject premises;
- (b) not more than four dogs shall be present on the premises at any one time;
- (c) no dogs shall be left outside unattended; and
- (d) there shall be no commercial activities in connection with the dogs.

The Board then proceeded by unanimous consent to take up deliberations on the application of Calarese Properties, Inc. A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to adopt the draft decision as presented by Mr. Cole as the decision of the Board.

The Board then proceeded to deliberate on the applications of Flying Fur, Inc. As a preliminary matter, the Board agreed unanimously that a dog care facility required a kennel permit even though no dogs were kept overnight. After a rather inconclusive discussion, the Board passed unanimously a motion made by Mr. Cole and seconded by Mr. Musmanno to table further deliberations.

By unanimous consent, the next meeting of the Board was fixed for February 6, 2013 at 7.45 p.m. A motion to adjourn was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously; the Board adjourned at 9.38 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING FEBRUARY 6, 2013

Messrs. Musmanno, Cole and Biocchi, and Ms. Doherty were present when the Clerk called the meeting to order at 7.46 p.m. Ms. Gould joined the meeting immediately thereafter.

Mr. John Fernandes, attorney for Mr. Robert Symonds, appeared and requested a continuance of Mr. Symonds application to March 6, 2013. A motion to continue the application to 7:45 pm on that date was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously.

A motion was made by Mr. Musmanno, seconded by Ms. Doherty to accept the Minutes of the January 16, 2013 meeting of the Board as presented by the Clerk. Ms. Doherty observed that the reference in the Minutes to “20 Broken Tree Road” must be erroneous because #20 would lie on the opposite side of Broken Tree Road from the lot in question and therefore could not be the nearest neighbor. It was agreed that the Minutes should reflect what was actually said at the hearing, even if erroneous, so by unanimous consent “[sic]” was inserted after the reference to “20 Broken Tree Road”, and the Minutes as thus amended were accepted unanimously.

The Chairman noted receipt of a letter from Calarese Properties enquiring whether the reference to “188 parking spaces” in the Decision recently issued by the Board was correct, and asked for authority to reply indicating that this portion of the Decision was deliberate. A motion to this effect was moved by Mr. Cole, seconded by Ms. Doherty and passed unanimously. A motion to authorize the Chairman to submit a report to the Town in the same terms as last year’s report was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously.

The Chairman noted receipt of the annual report from CHAPA, and the Board signed the Decision on the application McNally and Cooke.

The Board then proceeded, by unanimous consent, to hear the application of Mr. Marcel, who appeared with his attorney, Mr, Russell J. Hallisey.

Mr. Hallisey stated that the present use of the subject lot was light manufacturing pursuant to a 1985 variance granted by the Board and a special permit. This application relates to the addition of 100 x 40 foot building to provide additional space for the present use. The new construction does not have a side setback problem because of the irregular shape of the lot. The addition will be used for the existing radon testing business and there will be no additional employees; the existing business simply needs more space than is available in its present cramped building. In response to questions from the Board, Mr. Hallisey stated that the corner of the lot was 20 feet from the new construction. In response to an invitation from the Board to show why the application would not be detrimental to the public good, Mr. Hallisey pointed out that there would not be an addition of any new use and that the existing use was not detrimental to the neighborhood; the proposed addition would get away from the existing look of a long building resembling a factory and would make the building look more like a house. He added that the proposed future parking area shown on the plan is now open.

There were no questions or comments from the public. A motion to close the hearing was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously.

The Board proceeded by unanimous consent to immediate deliberation on the application of Mr. Marcel. A motion was made by Mr. Musmanno, seconded by Ms. Doherty and passed unanimously to find that there was no outward indication that the conditions imposed in the 1985 Decision are being violated. A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the proposed modification is in accordance with, and does not increase the non-conformity of, the 1985 permit. A further motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to find that the proposed change is not substantially more detrimental to the neighborhood or the public good than the present conditions. A motion was then made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that the proposed change is consistent with the criteria set forth in Section III.J of the Zoning ByLaw. Accordingly, a motion was made by Mr. Musmanno, seconded by Ms. Doherty and passed unanimously to grant a special permit to petitioners in accordance with Zoning ByLaw Section V.D.4.a in general accordance with the plans provided.

The Board then proceeded by unanimous consent to resume deliberation on the applications of Flying Fur. A motion was made by Mr. Cole and seconded by Mr. Musmanno to find that the proposed change in use does increase the impact on the neighborhood and thus the relative detriment to the public good. This motion was defeated by a vote of 2-3, with only Mr. Cole and Mr. Musmanno voting in favor. A motion was made by Mr. Biocchi and seconded by Ms. Gould to find that the proposed change in use is not substantially more detrimental to the public good than the current use. This motion passed by a vote of 4-1, with only Mr. Musmanno voting against.

The Board then took note that the reference in the application to a special permit under Zoning ByLaw Section V.A should be to Section V.F.1.c.6.

A motion was then made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to find that the proposed use is consistent with the special permit criteria set forth in sub-Sections III.J.1-3 and 6 of the Zoning ByLaw. A further motion was made by Mr. Musmanno and seconded by Ms. Doherty to find that the proposed use is consistent with the special permit criterion set forth in sub-Section III.J.4 of the Zoning ByLaw. This motion passed by a vote of 4-1, with only Mr. Musmanno voting against. A further motion was made by Mr. Musmanno and seconded by Ms. Doherty to find that the proposed use is consistent with the special permit criterion set forth in sub-Section III.J.5 of the Zoning ByLaw. This motion failed on a vote of 2-3 with Ms. Doherty and Mr. Biocchi voting in favor.

A motion was then made by Mr. Biocchi, seconded by Mr. Musmanno and passed unanimously to find that a suitably conditioned special permit would enable this proposal to comply with the provisions of sub-Section III.J.5 of the Zoning ByLaw. Accordingly, a motion was made by Mr. Cole and seconded by Mr. Musmanno to grant to the applicants a special permit under Section V.D.1 and a special permit for a kennel under Section V.F.1.c.6 of the Zoning ByLaw subject to terms and conditions to follow. A motion was made by Mr. Cole and seconded by Ms. Gould to add a condition that there not be more than 30 dogs on the premises at any one time.

At this point, a motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to lay the previous motion and amendment on the table, and to amend the prior finding regarding sub-Section III.J.4 of the Zoning ByLaw by

inserting the phrase “A suitably conditioned special permit would enable this proposal to be”, so that the entire finding would read “A suitably conditioned special permit would enable this proposal to be consistent with the special permit criterion set forth in sub-Section III.J.4 of the Zoning ByLaw.”

The Board then by unanimous consent agreed to take the tabled motion and amendment from the table. A motion was then made by Mr. Biocchi and seconded by Mr. Musmanno to amend the number of dogs in the proposed condition to 20.

The hour now being rather late, the Board agreed by unanimous consent to table the pending motion and amendments and to leave the drafting of proposed decisions on this application to any members who wished to volunteer to do so, with the understanding that the matter would be further considered at the Board’s next meeting.

A motion to adjourn was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously; the Board adjourned at 10.40 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING MARCH 6, 2013

The Chairman called the meeting to order at 7.46 p.m. with all five members present.

A motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to adopt the Minutes of the Board's February 6, 2013 meeting as presented by the Clerk but with three agreed changes.

A motion was made by Mr. Musmanno, seconded by Ms. Doherty and passed by unanimous consent to instruct the Secretary to contact the Town's IT Department to advertise two vacancies on the Board.

The Board then signed routine bills.

By unanimous consent, the Board agreed to resume the hearing on the application of Mr. Symonds, which had been continued at the Board's previous meeting. Mr. John Fernandes, attorney for Mr. Robert Symonds, appeared with Mr. Symonds. Mr. Fernandes explained that the application was essentially one to resume use of the subject property as a five family dwelling, as it had been used for many years. The dwelling was built in 1898 as the Town's Poor House. The present lot size is approximately 3.8 acres but it was formerly larger. After the Town ceased to use it as the Poor House, in the 1950's it was converted to a rooming house. In 1970, Mr. Fernandes continued, a lightning strike destroyed the third floor, and thereafter only two units on the ground floor were used. In 1982, a variance was issued for a four unit dwelling, the applicant apparently believing that he only needed permits for the four additional units. Mr. Symonds took out a building permit and installed mailboxes and electric meters for five units. A periodic inspection by the Town in 2012 revealed the permit for only four units. There has been no suggestion of any annoyance of the neighbors; the present tenants have lived in the units for several years, and at least one tenant would be displaced if the present application is not granted. Twenty five years experience shows that the present use is not detrimental to the neighborhood, and there was no expansion of the building to accommodate the present five units. The applicant argues, Mr. Fernandes continued, that

he is protected against enforcement of the zoning violation under the building permit after the six year limit set by statute.

In response to questions from the Board, the attorney stated that the applicant does not dispute the Building Inspector's interpretation of the earlier variance. The applicant is satisfied with the basis for the earlier variance, although the present hardship may be different. The applicant argued that his demonstrated good faith during construction avoids the rule against self-created hardship being used to obtain a variance; the Town must have been aware of the five units during inspections in the course of construction and later. The area of the lot was reduced in 1983 when a separate lot was created to hold a house built following the lightning strike to accommodate a displaced tenant.

When comments were invited from the public, the Building Inspector stated that the applicant had not tried in any way to mislead the Town regarding the number of units present.

In response to a further question from the Board, applicant's attorney stated that the applicant would not object to the decision on the present application taking the form of an amendment to the earlier variance. At this point, the Board took a five minute recess to enable the attorney to locate a copy of the earlier variance. At the end of this recess, the Board resumed the hearing after the Secretary had located a copy of the earlier variance. There were no further questions or comments from the public. In final submissions, applicant's attorney noted that there were at one time 15 single rooms in the rooming house, and that parking is available for about 15 cars.

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

The Board proceeded by unanimous consent to immediate deliberation on the application of Mr. Symonds. A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the reasons for the grant of the 1983 variance relating to the subject lot, as set forth in the Board's Decision of March 29, 1983, are still valid. A motion was made by Mr. Cole and seconded by Mr. Musmanno to find that the subject premises have been openly and notoriously used as a five family residence since approximately 1985. A motion was made by Ms. Doherty and seconded by Mr. Biocchi to

strike the words “and notoriously” from the previous motion. This motion to amend was defeated 2-3 with only Ms. Doherty and Mr. Biocchi voting in favor. The main motion was then passed unanimously. A further motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to find that continued use of the subject premises as a five family residence would not be detrimental to the public good.

A motion was then made by Mr. Cole and seconded by Mr. Musmanno to amend the Board’s prior Decision of March 29, 1983 relating to the subject premises by striking the antepenultimate paragraph and substituting “There shall be no more than five apartments on the premises.” A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to delete only the words “two apartments per floor, be constructed” from the antepenultimate paragraph and add “five apartments on the premises”. The main motion as thus amended was then passed unanimously

The Board then proceeded by unanimous consent to resume deliberation on the applications of Flying Fur. A motion was made by Mr. Musmanno and seconded by Mr. Biocchi to adopt the proposed opinion drafted by the Clerk. A further motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to amend Condition 3 to specify that the hours of operation should be 7 am to 7 pm daily. A further amendment was made by unanimous consent to add the word “floor” after “1058 square feet”. The main motion as thus amended was then passed unanimously.

A motion to adjourn was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously; the Board adjourned at about 9.40 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING APRIL 17, 2013

The Chairman called the meeting to order at 7.46 p.m. with Messrs. Musmanno and Cole and Ms. Gould present.

A motion was made by Mr. Musmanno, seconded by Ms. Gould and passed unanimously to adopt the Minutes of the Board's March 6, 2013 meeting as presented by the Clerk but with one agreed change.

A motion was made by Mr. Cole, seconded by Ms. Gould and passed unanimously to adopt the decision on the application of Mr. Symonds as presented by the Secretary.

A motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to take up and advertise the application of Mr. Blenkorn. By unanimous consent, the hearing on this application was set for May 15.

Due to only three members of the Board being present, a motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to open the hearing on the application of Charter Realty and immediately continue this hearing to May 1.

A motion to adjourn was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously; the Board adjourned at about 8.10 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING MAY 1, 2013

The Chairman called the meeting to order at 7.55 p.m. with Messrs. Musmanno, Biocchi and Cole and Ms. Gould present.

By unanimous consent, the Board agreed to proceed immediately with the hearing on the application of Charter Realty, on whose behalf Ms. Karen Johnson appeared. In view of the completeness of the Petition and supporting Written Statement, the applicant waived any oral opening statement, and the hearing proceeded immediately to questions from the Board. The applicant noted that the Planning Board and the Selectmen had reviewed the existing McDonald's drive-thru extensively. The building housing Starbucks (on whose building the proposed drive-thru is to be located) has adequate parking for the three existing tenants. Although the applicant recognized that the common exit from McDonalds and Starbucks is something of a choke point, applicant's representative pointed out that neither McDonalds nor Starbucks has direct access off Route 109, so that it is movement within a shopping center well away from the main highway which is being discussed. Furthermore, traffic at this point will be eased by the changes in the landscaping on the opposed side of the main driveway from Starbucks, which will avoid conflicts between traffic leaving the Star Market parking lot and traffic leaving McDonalds/Starbucks. Applicant's representative further noted that the present plan was adopted after three or four earlier iterations of a plan had been rejected, including one which would involve the construction of a complete building for Starbucks with a drive-thru an existing landscaped area.

A further lengthy discussion regarding traffic issues then developed. The applicant confirmed that there had been no approach to the Planning Board to date, and again drew attention to the details of the reworking of the Star Market parking to reduce conflicts. The applicant further noted that the proposed drive-thru reduces the number of parking spaces on the side of Starbucks facing McDonalds and reduces the width of the exit facing McDonalds, making it one-way; this will substantially reduce the number of vehicles leaving Starbucks by this exit.

There were no questions or comments from the public.

A motion to close the hearing was made by Mr. Cole, seconded by Mr. Biocchi and passed by a vote of 3-1, with Mr. Musmanno opposed.

By unanimous consent, the Board immediately began deliberations on the application of Charter Realty. A motion was made by Mr. Biocchi, seconded by Ms. Gould, and passed unanimously to find that the proposed use would not be a substantial detriment to the public good. A further motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to find that grant of the proposed Special Permit would not be inconsistent with any of the criteria set out in Section III.J of the Zoning ByLaw.

Accordingly, a motion was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously to grant to the applicant Capital Realty I and II a Special Permit in accordance with Section V.G.1.j of the Zoning ByLaw for a drive-thru facility primarily at Lot AA at 65, 67 and 67D Main Street.

A motion to approve the Minutes of the Board's April 17, 2013 meeting as submitted by the Clerk was made by Ms. Gould, seconded by Mr. Musmanno and passed by a vote of 3-0; Mr. Biocchi abstained since he was not present at the earlier meeting.

A motion to adjourn was made by Mr. Cole, seconded by Ms. Gould and passed unanimously; the Board adjourned at about 9.25 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING MAY 15, 2013

The Chairman called the meeting to order at 7.49 p.m. with Messrs. Musmanno and Cole and Ms. Gould and Doherty present.

A motion to approve the Minutes of the May 1, 2013 meeting of the Board as presented by the Clerk was made by Ms. Gould, seconded by Mr. Musmanno and passed by a vote of 3-0 with Ms. Doherty abstaining since she had not been present at the earlier meeting.

The Board agreed, by unanimous consent, to adopt the decision on the application of Charter Realty with agreed minor amendments.

At this point, Mr. Biocchi joined the meeting.

By unanimous consent, the Board agreed to proceed immediately with the hearing on the application of Elizabeth Blenkhorn, who appeared on her own behalf. The applicant explained that Hillside Court is a very old street which once went through to North Street. An addition to the existing house was erected in 1986 on the east side of the older building, and above grade. In response to a question from the Board as to why the house could not be moved so as to conform with the setback requirements of the Zoning ByLaw, the applicant stated that it was desired to retain the front of the existing foundation; the farthest forward part of the foundation is that of a porch which has been added to the pre-existing structure; neither the side nor the back of the proposed building will be on the existing foundation. There has been no application for a building permit. The existing deck on the north side of the house will be removed. Moving the house back (i.e., eastwards) to conform to setback requirements would involve major filling and considerable expense, and would leave the house several feet above grade. The proposed new house would be single story; the present house is single story but with bedrooms in the basement.

There were no questions or comments from the public, but two letters of support from abutters were read into the record.

The Building Inspector explained that the applicant could not obtain a building permit for the proposed construction since she was not a licensed contractor as is required for erection of a modular home.

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

By unanimous consent, the Board immediately began deliberations on the application of Elizabeth Blenkhorn. A lengthy discussion ensued as to the applicability of Sections V.D.4.a and V.F.7 of the Zoning ByLaw. It was noted by the Board that during the course of the hearing both the petitioner and the Building Inspector had clarified that no building permit had been applied for.

A motion was made by Mr. Biocchi, and seconded by Mr. Cole unanimously to find that the grant of a special permit under Section V.F.7 of the Zoning ByLaw would not cause substantial detriment to the public good. A motion to amend by striking the reference to Section V.F.7 was made by Ms. Doherty and seconded by Ms. Gould. A motion to table both the main motion and the amendment was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously.

A motion was then made by Mr. Musmanno and seconded by Mr. Cole to find that the proposal as described in the application does not meet a rigorous definition of the term “reconstruction”. This motion was passed by a vote of 4-0 with Ms. Doherty abstaining. A motion was then made by Mr. Cole and seconded by Mr. Musmanno to add to the preceding motion references to “alteration” and “enlargement” as listed in Section V.D.4.a of the Zoning ByLaw. Again, this motion was passed by a vote of 4-0 with Ms. Doherty abstaining. A motion was made by Ms. Doherty, seconded by Mr. Musmanno and passed unanimously to find that the front and side setbacks of buildings on adjacent lots differ from those of the relevant Zoning District.

By unanimous consent, the Board agreed to take up the previously tabled motion and amendment from the table. Ms. Doherty then withdrew her proposed amendment, and the main motion was passed unanimously. A further motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that the project as proposed meets all of the Special Permit criteria set out in Section III.J of the Zoning ByLaw.

Accordingly, a motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to grant to the applicant Elizabeth Blenkhorn a Special Permit in accordance with Section V.F.7 of the Zoning ByLaw for construction of a one story single family dwelling at 4 Hillside Court in accordance with the initialed plans with a front setback of at least 9 feet on condition that the side setback be at least 10 feet.

A motion to adjourn was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously; the Board adjourned at about 9.30 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING June 19, 2013

The Chairman called the meeting to order at 7.54 p.m. with all members present.

The Board agreed, by unanimous consent, to proceed with a hearing on the appeal of Mr. Cassidy. The Chairman noted that this hearing was held outside the normal 30 day period with the consent of the appellant. The Chairman also announced that the Board would first consider the question of the appellant's standing to bring this appeal, and, if the appellant was successful on this question, would then proceed to a full hearing on the merits with input from the appellant, the Zoning Enforcement Officer and the public. In response to a question from the public (in fact from the attorney for Calarese Properties, the developer of the development concerning which the appellant was seeking a ruling) the Board decided that on the question of standing public comments would be received as *amici* contributions.

The appellant stated that he had been told by persons he had consulted that he should seek an opinion regarding whether the high retaining wall, which would be built very close to his property line, was a "structure" within the meaning of that term as used in the Zoning ByLaw. Furthermore, the appellant noted that the letter from the Zoning Enforcement Officer stated that he had a right of appeal.

At this point, lengthy exchanges took place between the appellant and the members of the Board. Among the points raised were (a) it is difficult to see how the appellant fits into any of the categories of persons entitled to appeal enumerated in MGL 40A, Section 8, which defines the Board's limited jurisdictions; (b) it is not clear what effect a favorable decision on the merits of the appeal would have; since the proposed retaining wall has not yet been built, nor has permission for its construction been obtained from the Planning Board, there is presently nothing against which the Zoning Enforcement Officer can act; (c) both respect for a fellow Board, and the risk of depriving the developer of due process, counsel against action by the Board on a limited factual record which might foreclose action by the Planning Board on a more developed

factual record; and (d) since a decision by the Board would not bind the Planning Board, there is a risk of inconsistent decisions if the Board proceeds.

When comments were invited from the public, Mr. Joseph Antonellis, the attorney for Calarese Properties, presented the Board with a written memorandum relating to the standing issue. Mr. Antonellis urged that the problem with the proposed appeal was not one of vagueness, as had been suggested in earlier discussions, but rather that the question was not ripe. There are multiple things going on at the Planning Board and Calarese could not at present obtain a building permit for the proposed retaining wall since there has been no site plan review. Mr. Antonellis stated that he understood the argument for judicial economy but hearing the present appeal would not in fact be such judicial economy (directing attention to the *Connors* case cited in his brief) since permission for the proposed wall might never be given or a different wall might be substituted. Issue of an advisory opinion is not an appropriate way to proceed in the present circumstances.

There was no further public comment. When the Board indicated that they would move immediately to deliberation on the standing issue, the appellant sought to withdraw his appeal. By unanimous consent, the Board allowed this withdrawal, noting that that no determination had been made about standing or the facts of the case.

A motion was made by Ms. Doherty, seconded by Mr. Musmanno and passed unanimously to accept the Minutes of the May 15, 2013 meeting as presented by the Clerk, with one agreed minor amendment.

A motion was made by Mr. Cole, seconded by Mr. Biocchi and passed by a vote of 4-0 to accept the petitions of Ms. Cataldo and Sprint, and set them for hearing on July 17. Mr. Musmanno abstained since he would no longer be a member of the Board by the hearing date.

The Board then interviewed Mr. Craig Olsen, who had expressed an interest in becoming a member of the Board. Mr. Olsen explained that he had attended many Zoning Board of Appeal meeting in his previous town, especially those involving large projects such as schools. Following the interview, on a motion made by Ms. Doherty and seconded by Mr. Biocchi, the Board unanimously recommended to the Selectmen and the Town Administrator that Mr. Olsen be appointed to the Board.

The Board then signed bills, and by unanimous consent accepted the decision on the application of Ms. Blenkhorn with one agreed amendment.

A motion to adjourn was passed by unanimous consent and the Board adjourned at about 9.20 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING July 17, 2013

The new Chairman, Messr. David Cole called the meeting to order at 8.00 p.m. with all members present.

The Board agreed, by unanimous consent, to hear the application of Centerline Communications relating to 34 West Street, represented by Mr. Derek Patton and Mr. Peter LaMontagne to explain the plans submitted with the application requesting a Special Permit (V.S.5) to remove and replace existing (6) antennas and replace with (3) new antennas on utility poles along with related equipment. There will be no change in height or to footprint on ground located at 34 West Street, Medway, MA 02053

The tenant Sprint Spectrum, L.P. would like to upgrade and modify old equipment and replace with new and bring up-to-date for their present Cellular customers and future customers. They pointed out there would be no increase of noise and that there is 747 feet to the closest street. Chairman David Cole said they were within all the General Requirements of the Medway Zoning Bylaw.

There were no questions or comments by the public.

A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously by a vote of 4-0 to deliberate on the Special Permit for Centerline Communications.

A motion was made by Mr. Cole, seconded by Mr. Biocchi hear the application of Carolyn Cataldo for a Special Permit to have 10 dogs instead at her home located at 23 Holbrook Street, Medway, MA.

Ms. Cataldo came before the Board to explain that she presently has a Kennel Permit for 6 dogs and would like to up it to 10 dogs. The location is a very private and secure setting for dogs, has never had any complaints. Her dogs are show dogs, no barking and live inside and never outside unless someone is home and are hand walked in her own yard, and never unattended. Show dogs have handlers and are not staying there half of the time because they are at shows. She has people that come to visit and she would like their dogs to be able to stay overnight, maybe one to 3 nights.

Questions and comments were opened to the Public. Brian G. Snow, abutter at 22 Holbrook Street, was present and was not in support of the Special Permit. He stated that there is a 6 foot stockade fence surrounding the entire parcel, with multiple chain link fences within. The fences are posted with beware of dog signs, which are unsightly and detract from the residential nature of the ARII zoning.

The Animal Control Officer was unable to attend the meeting but submitted her thoughts. Specifically in regards to increasing the number of dogs on the property, the original Kennel License was for 6 dogs, her 3 and 3 visiting dogs. Ms. Cataldo has increased the number of her permanent dogs at the house to 6, leaving “no room” for visitors. Animal Control Officer would not be in favor of the Special Permit being granted.

A motion to adjourn the meeting was passed by unanimous consent by a vote of 4-0

A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously by a vote of 4-0 to deliberate on the Special Permit for Carolyn Cataldo. This is a very difficult decision to decide.

While the Board was deciding what to do about Ms. Cataldo, she requested to withdraw her request. As the hearing was conducted, the Board had to consent to Ms. Cataldo’s Withdrawal. After deliberating it was voted unanimously, 4-0 by Messrs. Cole, Biocchi, Ms. Gould and Ms. Doherty your request of withdrawal

without prejudice, and will not in any way affect the existing Decision dated January 18, 2006 stands as is.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING AUGUST 21, 2013

The Chairman called the meeting to order at 7.53 p.m. with all four members of the Board present. The Board then signed routine bills.

A motion to accept the minutes of the meeting of July 17, 2013 as presented by the Chairman was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously.

The Board agreed, by unanimous consent, to hear the application of GCCF New England, LLC. on whose behalf Mr. Peter Paulousky and Mr. Philip Henry appeared. The applicant requested a postponement of the hearing to enable some changes to be made in the application, including the addition of a further variance from the height requirement of the relevant sign. After some discussion, it was agreed between the applicant and the Board that (a) an amendment to the application would be filed and advertised; (b) the applicant would bear the cost of the necessary advertisement; and (c) the hearing would be postponed to October 2, 2013 at 7:45 pm.

The Board then proceeded, by unanimous consent, to hear the application of Centerline Communications, on whose behalf appeared Mr. Derek Patton. Mr. Patton noted that, except for the location, the application was similar to one which the Board had considered at its previous meeting and was for essentially the same purpose. The application related to replacing nine existing antennas and ground equipment with three new antennas and additional ground equipment within the existing shelter, with addition of noise mitigating equipment. The new equipment would fit within the footprint of the existing equipment, there would be no increase in tower height or footprint and the new antennas would be placed on the existing mount. The existing equipment was, the applicant stated, old and outdated and the proposed new equipment was required to increase capacity. There would be no increase in noise and the existing air conditioning equipment would not be changed. When questions from the public were invited, Mr. David Morgan, of 30 Hill Street, asked the applicant to confirm that there would be no

additional structures on site, and the applicant's representative did so. Apart from this question, there was no public comment.

By unanimous consent, the Board moved to immediate deliberation on the application of Centerline Communications. The following motions were successively moved by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously:

- (a) The applicant demonstrated substantial compliance with all the requirements of Section V.S.2 of the Zoning ByLaw;
- (b) The site is the preferred location as required by Section V.S.3.b;
- (c) Grant of the requested Special Permit would not constitute a substantial detriment to the public good;
- (d) Grant of the requested Special Permit would not be inconsistent with any of the criteria for special permits set out in Section III.J; and
- (e) A Special Permit is granted to the applicant for removal of existing antennas and installation of new antennas substantially in accordance with the plans presented.

A motion to adjourn was passed by unanimous consent and the Board adjourned at about 8.45 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING OCTOBER 2, 2013

The Chairman called the meeting to order at 7.52 p.m. with Messrs. Cole, Biocchi and Olsen and Ms. Gould present. The Chairman welcomed Mr. Craig Olsen to his first meeting as a member of the Board.

The Board reopened the hearing on the Petition of GCCF New England, LLC, on whose behalf Mr. Peter Paulousky and Mr. Philip Henry appeared. Mr. Paulousky, noting that there were only four members present, asked for a further postponement of the hearing, and it was agreed to postpone the hearing to October 16, 2013 at 7:45 pm. Mr. Paulousky agreed to confirm this request in writing and to grant any necessary waivers of the statutory deadline for the hearing.

The Board then proceeded by unanimous consent to open the hearing on the application of Mr. and Mrs. Mele, on whose behalf Mr. Paul Kenney appeared. Mr. Kenney, noting that there were only four members present, asked for a postponement of the hearing, and it was agreed to postpone the hearing to October 16, 2013 at 8:00 pm. Mr. Kenney agreed to confirm this request in writing

A motion was made by Mr. Biocchi, seconded by Ms. Gould and passed by a vote of 3-0 (Mr. Olsen abstaining since he was not a member of the Board at the earlier meeting) to accept the Minutes of the August 21, 2013 meeting as presented by the Clerk.

A motion to adjourn was made by Mr. Biocchi, seconded by Ms. Gould and passed unanimously, and the Board adjourned at about 8.12 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING OCTOBER 16, 2013

The Chairman called the meeting to order at 7.45 p.m. with all five members present.

The Board reopened the hearing on the Petition of GCCF New England, LLC, on whose behalf Mr. Peter Paulousky and Mr. Philip Henry appeared. Mr. Paulousky discussed his revised memorandum on why the Board should grant the requested variances, pointing out that the portion of the height of the sign which exceeded the allowable 8 feet was essentially a “roof” provided to ensure the sign was architecturally consistent with the buildings of the proposed development. Mr. Paulousky further argued that the variance in the area of the sign was justified because the shape of the lot and the adjacent area lying behind the curb but within the right of way, necessitates placing the sign a substantial distance (about 85 feet) from the nearest point on the roadway at the intersection. At this point, a Board member noted that the sign was angled such that it could not be read from this point on the roadway, and that the relevant distance was that perpendicular to the faces of the sign from the sign to the nearest point on the roadway. Mr. Paulousky pointed out that this distance was still in excess of 65 feet so the variance was still justified, and further argued that this long sight distance justified the requested variance for internal illumination to make the sign more easily visible at night.

When questions and comments from the public were requested, the owner of the Dunkin Donuts store across Route 109 from the subject lot pointed out that she had been required to modify proposed signage at her store to conform to the signage requirements in the relevant Zoning District, and suggested that if the requested variances were granted, she, and possibly other commercial businesses within the same Zoning District, might come before the Board to ask for similar variances. Ms. Teresa Stuart, of 21 Lovering Street, introduced a petition, signed by numerous persons living in the area, opposing all variances for the project. Ms. Louise Donalt spoke against the proposed variances, especially the internal illumination of the sign. In addition, as reflected in the

Board's records, numerous letters opposing the proposed variances were read into the record.

After the public comments, various Board members indicated that they felt a need for more information on this application. In particular, since the applicant had argued for the height variance to allow a roof structure in conformity with the buildings in the development, the Board requested information regarding the attitude of the Design Review Committee to the proposed sign. The Board also requested further information regarding the visibility of the sign to passing motorists. The applicant agreed to a continuation of the hearing to 7:45 pm on October 30, 2013 to enable this information to be provided.

The Board then proceeded by unanimous consent to reopen the hearing on the application of Mr. and Mrs. Mele, on whose behalf Mr. Paul Kenney appeared. Mr. Kenney described the history of this matter. A variance was originally granted in 1992 and duly recorded. At that time, most people believed that recording a variance preserved the variance indefinitely. The applicants have since paid property taxes for both lots, which they believe are valued as buildable lots. It was only with the Decision of the Supreme Judicial Court in *Cornell v. Bd. of Appeals of Dracut*, 453 Mass. 888 (2009) that it was determined that it was necessary to either seek a building permit or convey one of the relevant lots within a one year period after the grant of a variance to preserve the variance indefinitely. The applicants were for some time unaware of the change of law and signed a Purchase and Sale Agreement relating to one of the subject lots which required that a valid variance be obtained.

The Board members discussed at length with applicants' attorney the effect of the change in the Zoning By Law relating to lot shape factor since the original variance was granted.

When questions and comments from the public were requested, Mr. Paul Santosuosso of 2 Franklin Street stated that he was not in favor. Mr. Joseph Tunney of 16 Franklin Street (the lot shown as "N/F Mucci" on the plot plan provided with the application) stated that he was against the application because he was concerned about a new house being built 30 feet from his existing house.

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

After a brief recess, the Board proceeded to deliberate on the application of Mr. and Mrs. Mele. After a long and rather inconclusive discussion, a straw poll of the Board indicated that all members were in favor of granting the requested variance but did not agree on the exact rationale for such a decision; in particular, it appeared that members were having difficulty with the necessary variance of lot shape factor. Accordingly, in view of the relatively late hour, it was agreed by unanimous consent to postpone further deliberation on this application under the Board's Meeting on October 30, but that members should be free to circulate (but not discuss) draft decisions or part decisions prior to that meeting.

A motion was made by Mr. Biocchi, seconded by Ms. Doherty and passed unanimously to accept the Minutes of the October 2, 2013 meeting as presented by the Chairman.

A motion to adjourn was made by Ms. Gould, seconded by Mr. Biocchi and passed unanimously, and the Board adjourned at about 10.15 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING OCTOBER 30, 2013

The Chairman called the meeting to order at 7.45 p.m. with all five members present.

The Board reopened the hearing on the Petition of GCCF New England, LLC, on whose behalf Mr. Peter Paulousky and Mr. Philip Henry appeared. Mr. Henry presented a detailed analysis of the location of the proposed sign in relationship to the travel lanes of the roadways adjacent the lot, and demonstrated that, because of the distance between the edge of the lot and the edge of the travel lanes, drivers would be viewing the sign from distances of about 95 feet, instead of about 63 feet that would be expected on a “normal” lot. Mr. Henry then pointed out that, despite the approximate 50% increase in viewing distance, the applicants were only requesting a 50% increase in total sign area, and thus approximately a 22% increase in the linear dimensions of the sign. Mr. Paulousky then discussed the history of the development, explaining that the present application reflected the results of discussions between the applicants and the Design Review Committee, according to which the area of signage on the buildings in the development would be reduced while the area of the monument sign would be increased. In response to a question from a Board member, Mr. Paulousky confirmed that the applicants would not object to a condition tying a variance increasing the area of the monument sign to a decrease in the area of the signage on the buildings below that permitted by the Zoning ByLaw. Mr. Paulousky also argued, with the aid of photographs showing internally and externally lit signs at night, that an internally illuminated sign produced a “cleaner” image which would assist drivers in reading the sign at the increased viewing distances required by the peculiarities of the lot.

When questions and comments from the public were invited, Ms. Tracy Stewart urged the Board to hold the hearing open until the proposed letter from the Design Review Committee had been received. However, following the period for public comment, on a motion made by Mr. Biocchi, seconded by Mr. Cole and passed by a vote of 4-1 (Mr. Olsen dissenting), the Board voted to close the hearing but to leave the record

open for any letters from the Design Review Committee or Planning Board. The Board then decided, on a motion made by Mr. Biocchi, seconded by Ms. Doherty and passed by a vote of 4-1 (Mr. Cole dissenting) not to deliberate on the application of Cumberland Farms at this meeting of the Board.

The Board then proceeded, on a motion made by Ms. Doherty, seconded by Mr. Cole and passed unanimously, to deliberate on the application of Mr. and Mrs. Mele. After some members of the Board expressed a need for input from Town Counsel regarding this matter, it was agreed that the Chairman be instructed to approach the Town Administrator to permit the Board to secure the services of Town Counsel in relation to this matter. By unanimous consent, the Board postponed further deliberation until the opinion of Town Counsel was received.

By unanimous consent, the Board accepted the application of Miranda and set the hearing for November 20, 2013 at 7:45 pm.

A motion was made by Mr. Biocchi, seconded by Ms. Gould and passed unanimously to accept the Minutes of the October 16, 2013 meeting as presented by the Chairman.

A motion to adjourn was made by Mr. Biocchi, seconded by Ms. Gould and passed unanimously, and the Board adjourned at about 9.15 p.m.

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING NOVEMBER 20, 2013

The Chairman called the meeting to order at 7.45 p.m. with all five members present.

The Board reviewed the application of Daniel Pires, and determined that more information was required, including a plan, before a hearing. However, since it appeared that the applicant could supply this information prior to or at the hearing, the Board agreed by unanimous consent to set this application for hearing on January 8, 2014 at 7:45 pm, and to instruct the Secretary to write to the applicant seeking the further information needed.

The Board then proceeded by unanimous consent to hear the application of Alex Miranda for relief from front setback requirements at 27 Barber Street. Mr. Miranda appeared on his own behalf and explained that although the subject lot was technically a corner lot subject to the 35 foot front setback requirement along both adjoining streets, there were no buildings close the subject lot along Winter Street (i.e., along the North side of the subject lot) and indeed Winter Street did not give access to other occupied lots. It was essentially impossible to place the desired shed in a position conforming to the 35 foot setback on both streets and the other required setbacks without placing the shed inconveniently close to the house; allowing a reduction in setback along (the essentially non-functioning) Winter Street would permit placement of the shed a convenient distance from the house without inconveniencing anyone else. The setbacks of several structures in the neighborhood, for example the garage on the lot immediately to the South, are less than the requested 15 feet.

Ms. Mary Jordon of 4 Crook Street and Ms. Anne Sakristos of 24 Barber Street both spoke in support of the application; no member of the public spoke against it and there were no questions from the public.

A motion was made by Mr. Biocchi, seconded by Ms. Gould and passed unanimously to close the hearing. The Board then proceeded, by unanimous consent, to immediate deliberation on this application.

A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that the front setbacks on lots in the neighborhood vary from the 35 feet prescribed by the Zoning ByLaw. A further motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to find that no neighbors on the North side of the subject lot would be inconvenienced by reduction of the front setback on the side from 35 feet to 15 feet. A third motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that granted of the requested relief would not be substantially detrimental to the public good. A further motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that granted of the requested relief would not contravene any of the criteria for issue of special permits set out in Section III.J of the Zoning ByLaw. Finally, in view of the foregoing findings, a motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to grant a special permit to the applicant for construction of a shed with a setback of 15 feet from the North lot line of 27 Barber Street along Winter Street.

The Board then, by unanimous consent, reopened deliberations on the application of GCCF New England. After some initial discussion, a straw poll of the Board members indicated that each member was in favor of granting the requested variances relating to sign area and height, but that no member was in favor of granting the requested variance relating to internal illumination of the sign. Accordingly, a motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the applicant demonstrated circumstances relating to shape and topography of the subject lot which do not generally affect the land in the zoning district. A further motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the applicant demonstrated circumstances relating to lot shape, namely the distance between the lot line and the actual edge of the roadway at the adjacent intersection, such that the sight distances from the roadway to the proposed are substantially larger than they would be in the absence of such circumstances, and that because of these increased sight distances, staying within the provisions of the Zoning ByLaw would hinder motor vehicle operations adjacent the subject lot. A further motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the portion of the sign exceeding the height permitted by the Zoning ByLaw was an ancillary structure intended to harmonize

with the proposed buildings on the site. A further motion was made by Mr. Cole, seconded by Ms. Doherty, and passed unanimously to find that the applicant failed to demonstrate sufficient circumstances to justify a waiver of the requirement of the Zoning ByLaw for external illumination of the proposed sign. Finally, a motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the grant of the proposed relief as to sign height and area would not derogate from the intent of the Zoning By-Law. By unanimous consent, the Board asked that the record of the deliberations note that the Design Review Committee supports the additional height and sign area of the proposed sign.

A motion was then made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, to grant to the applicant:

1 A variance from the provisions of Zoning District CV, Section V.R.8, Table 5 to permit a total sign area of 60 square feet with each face not to exceed 30 square feet;

2 A variance from the provisions of Zoning District CV, Section V.R.8, Table 5 to permit a sign height of 10 feet 4 inches instead of 8 feet;

subject to the following conditions and/or restrictions:

(a) The sign shall be constructed substantially in accordance with Drawing # CFG13.0 submitted to the Board;

(b) The sign shall be placed at least 71 feet from any roadway; and

(c) The increase in sign area from 40 to 60 square feet is conditioned upon a reduction of signage on buildings to 20% below that permitted by the Zoning ByLaw.

For the avoidance of doubt, the Board specifically noted that it did not grant any variance from the requirement of Zoning District CV, Section V.R.8 that the sign be externally illuminated.

The Board then, by unanimous consent, reopened deliberations on the application of Mr. and Mrs. Mele. After some preliminary discussion, the Board determined that they needed to move to executive session for the purpose of considering the opinion received from Town Counsel in relation to this matter. A motion to this effect, with the addition that the Board would later be returning to open session, was made by

Mr. Cole and seconded by Mr. Biocchi. On a roll call vote, all members of the Board indicated approval of the proposed executive session, the Minutes of which are recorded separately.

On return from executive session, a motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to find that the variance granted by the Board in 1992 was null and void. A further motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to find that the applicants failed to demonstrate any conditions relating to lot shape, topography or soil conditions sufficient to justify the proposed variance. A third motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to grant no relief on this application.

A motion was made by Ms. Doherty, seconded by Ms. Gould and passed unanimously to accept the Minutes of the October 30, 2013 meeting as presented by the Chairman.

A motion to adjourn was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously, and the Board adjourned at 9.54 p.m.