

**Town of Medway
Zoning Board of Appeals Meeting
Town Administrator Conference Room
Medway Town Hall
155 Village St, Medway MA**

MINUTES OF MEETING

October 12, 2016

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

Also Present: Stephanie Mercandetti Director, Community and Economic Development.

David Cole, Chairman, called the meeting to order at 7:33 PM.

Citizen comments:

There were no members of the public present.

Deliberation for Kevin Goddard, 54 Main Street:

The Applicant, Kevin Goddard, requested a Variance from Section 6.1 of the Zoning Bylaw to allow for the placement of a prefabricated garage 10 feet from the property line, where a 15 foot side setback is required, with respect to the property located at 54 Main Street, Assessor Parcel No. 41-016, AR-II Zoning District. The hearing for the Variance request was opened and closed on October 5, 2016.

Chairman Cole re-emphasized (from the hearing) that Mr. Goddard stated that he had already moved the nonconforming shed into conformance and that the Board would condition Mr. Goddard supply a modified plot plan to show that the shed is in a conforming position.

Mr. Stumpf stated that if shape of the property was valid reason to grant the variance and no neighbors had objected the request, then Mr. Stumpf did not see any detriment to granting the variance. Mr. White disagreed and did not believe that the lot met any of the requirements regarding shape, topography, or soil conditions for a variance, but that if the Board was looking at reducing the side setback by any amount, that the Board keep the garage setback in line with the existing driveway. Mr. White was inclined to grant the variance but to have the garage aligned with the driveway.

Mr. Kennedy stated that the variance may be a first step in considering expanding the existing concrete driveway; Mr. White stated that was the reason as to why he would prefer the garage aligning with the existing driveway edge.

Ms. Gould stated that Mr. Goddard had said there was an existing fence that would be in front of the garage (the southern side of the lot).

Mr. Stumpf stated that if the garage met the 15 foot setback there would only be 8 feet distance to the house and a few feet distance to the stairs.

Ms. Mercandetti explained to Ms. Gould that the location of the existing sheds and the garage would be verified by the Building Department when they inspected the garage.

Ms. Gould stated that she would like to see the garage moved further into compliance with the side setback requirement but recognized that it would leave garage close to the stairs.

Chairman Cole stated that 12 feet by 24 feet was large for a one-car garage. Mr. Stumpf explained that he did not understand how Mr. Goddard would get the car into the garage. Ms. Gould stated that Mr. Goddard had not said if would be taking the stockade fence down to install the garage.

Chairman Cole stated that if the Board granted a variance of around 2.5 feet less than the requested 10.2 feet, the garage would be more aligned with the existing driveway; if the garage met the setback requirements, there would not be enough room between the house and the garage.

Mr. Kennedy stated that he was more inclined to grant a variance with the garage located 12 feet from the side lot line versus the requested 10.2 feet; Chairman Cole stated that was why he had asked Mr. Goddard if he would find a variance of a few feet less acceptable. Chairman Cole stated that a the a variance that allowed the garage to be located 12 or 13 feet from the side lot line would align the garage better with the driveway and would also leave enough distance between the garage and the house.

Mr. Kennedy stated that there needed to be a reason as to why the Board was granting a variance at 12 feet versus the 10.2 feet requested. Mr. White explained that the Board could grant a lesser variance as long as it would still allow Mr. Goddard the original intentions of creating enough distance between the garage and the house for egress.

Chairman Cole stated that there were many lots in the area that were 100 feet by 100 feet and that there was already some precedent that a side setback of 10 feet for the simple reason that the amount of side yard space is limiting on those lots.

Mr. Stumpf asked if the Building Inspector would look at the alignment of the garage and driveway or if there was any design standard in Town for that alignment. Chairman Cole stated that there was no design standard in Town, provided the setback was met. Mr. White had stated that he had wished there was more insight on past cases with similar lots.

Mr. Stumpf stated that he didn't see the justification with an extra two feet variance. Chairman Cole explained that the variance should be minimized if there was no substantial hardship. Ms. Gould agreed with the location of the garage 12 feet from the side lot line.

Mr. White explained that his concern was that Mr. Goddard's argument was the shape and size of the lot but that he did not clarify his need for access and did not present any clear point as to why he needed the garage at a 10.2 foot setback. Mr. Kennedy stated that he believed Mr. Goddard

addressed that in the application. Chairman Cole summarized the application and stated that the function of Zoning is to have things reasonably uniform and is not necessarily meant for best use of the property. Mr. White explained that if Mr. Goddard had made any arguments for access there would be more reason for the Board to grant the 10.2 foot setback; there were other arguments to be had, but Mr. Goddard did not present those arguments to the Board.

Mr. Stumpf explained that he felt the variance was more about size versus the shape. Chairman Cole stated that usually the Board interprets size to also fall under shape.

Mr. Kennedy summarized that Ms. Gould and Chairman Cole felt a 12 foot setback, or 3 foot variance would suffice, that Mr. Kennedy and Mr. Stumpf felt a 10.2 foot setback, or 4.10 foot variance was acceptable, and that Mr. White was undecided. Mr. Stumpf stated that if a 12 foot setback would allow the Board to grant the variance, he would vote in favor.

Chairman Cole stated that if the applicant had needed another variance request, he felt that the Board would request that the applicant withdraw without prejudice and resubmit a new application including all variances needed on the resubmission.

Chairman Cole moved to find that the Applicant demonstrated conditions relating to the shape of the subject lot, particularly affecting the subject lot and not generally affecting lots in the relevant zoning district, namely the limited size of the pre-existing non-conforming lot, which comprises only 10,000 square feet as against the 22,500 square feet minimum as required by the AR-II Zoning District, and the placement of the existing house on the lot, which impose a hardship on the lot.

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

Chairman Cole moved to find finds that some reduction in the side setback requirement on the west side of the lot can be granted without substantial detriment to the public good.

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

Chairman Cole moved to find that given the spacing of approximately 35.3 feet between the west wall of the existing house and the west lot line and the presence of existing steps at the north-west corner of the existing house, in considering the extent of the variance to be granted, it is necessary to balance the setback of the proposed garage from the western side lot line against the spacing of the east side of the garage from the aforesaid steps; and the Board finds a reduction of the side setback requirement from 15 feet to 12 feet will leave adequate spacing between the east side of the proposed garage and the aforesaid steps.

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

Chairman Cole moved to find that during the pendency of the present application, the Building Inspector raised the question of whether the position one of the existing sheds did not conform with the Zoning District requirements, but that during the hearing, the applicant testified that the shed had been moved to a location conforming with the current Zoning District requirements; and that it is

appropriate for the Board and the Building Inspector to be satisfied that granting of the existing variance will not result in any continuing violation of the existing Zoning regulations on the subject lot.

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

Chairman Cole moved to grant to the applicant, Kevin Goddard of 54 Main Street, a Variance for the construction of a twelve (12) foot by twenty-four (24) foot garage on the west side of the lot at 54 Main Street, subject to the following terms and conditions:

- A. The garage shall be placed substantially in accordance to the lot plan, submitted with the application;***
- B. The side setback from the west side lot line shall be reduced from fifteen (15) feet to twelve (12) feet, no variation of rear or front setbacks being granted; and***
- C. Prior to the existence of the building permit of the proposed garage, the applicant shall submit to the building inspector a revised plot plan showing that the shed showed on the existing plot plan as being in a non-conforming location has been moved to a location conforming to the existing zoning regulations.***

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

Variance granted.

Adjournment:

A motion to adjourn the meeting was made by Mr. Kennedy, seconded by Mr. White and approved unanimously. The Board adjourned at 8:23 PM.