

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

MINUTES OF MEETING

September 6, 2017

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

Also present: Stephanie Mercandetti, Director, Community & Economic Development

Chairman Arbeene called the meeting to order at 7:30 PM.

Citizen Comments:

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

Any other business that may properly come before the Board:

Ms. Mercandetti gave a brief overview of the proposed amendments to the Wireless Communications Bylaw. A more in-depth discussion on the details was placed on the meeting agenda for October 4, 2017. The proposal was being reviewed by Town Counsel.

The Board voted to establish a Construction Observation Revolving Account, on a motion made by Mr. Stumpf seconded by Ms. Gould, and approved unanimously.

Correspondence:

Doug Havens sent correspondence informing that the Town has submitted a letter and documentation to DHCD requesting certification of the Town's Housing Production Plan following the lapse of the appeals period for Glen Brook Way. As Glen Brook Way is a development of 48 affordable rental units, it will provide us with safe harbor for two years.

Public Hearings:

7:35 P.M. – The Applicant, Alfred Fraser, seeks a Variance from Section 6.1 of the Zoning Bylaw to divide one lot into two lots so as to construct a single family residence on "Lot 3," in addition to the single family structure currently on "Lot 4." Lot 4 shall remain a conforming lot. Petitioner is seeking a variance for Lot 3 which would have 27,389 sq. ft. of area and 104.33' of frontage, with respect to the property located at 78 Fisher St.

New comments and correspondence from the Conservation Agent, Board of Health, and Department of Public Services were provided to the Board. The Applicant and his representative addressed the concerns from the

previous hearing and the concerns that arose from ZBA staff correspondence to other departments. The Applicant is looking to sell the lot to a builder or to develop the lot along with a builder. The Applicant is willing to address abutter concerns at time of construction. The Applicant and his representative had no issues with many of the requests, comments, or suggestions provided by Town Staff. The Applicant's representative suggested drafting conditions that might exceed conditions in a typical granted variance that would address the concerns of staff and abutters.

A motion to continue the hearing to 7:35 pm on October 4, 2017 was made by Mr. White, seconded by Mr. Stumpf and approved unanimously.

7:35 P.M. – The Applicants, Alan Moles & Brenda Murrell, seek a Variance from Section 6.1 to allow for a deck that is 9 feet away from the property line; a 6 foot variance from the required 15 foot side setback, with respect to the property located at 106 Oakland Street.

The Board was provided with the information from the previous application, dated May 17, 2017 and withdrawn on August 2, 2017 along with the new application and certified plot plan of 106 Oakland Street.

Due to the discrepancy which required the Applicants to withdraw the previous application and re-apply with the correct variance request, the Applicants requested a waiver of the application fees and legal notice invoice costs. The Board voted unanimously to grant the requested waivers.

The Applicants provided an overview of their variance request. Ms. Murrell explained that the applicants had gone about the process backwards and that the applicants should have requested the variance prior to constructing the deck. Ms. Murrell explained that the Applicants had previously applied to the Board and that the request to withdraw the previous application was at the request, by the Board, to provide a certified plot plan showing the correct location of all buildings and structures on the premises. The Applicants received a building permit and had final approval from the Building Department when they were told that they would need to apply for a variance. However, the Building Inspector that reviewed the application, Rindo Barese, does not act as the Zoning Enforcement Officer, and had not reviewed the structure for compliance with zoning, only compliance with Building Code. After the Zoning Enforcement Officer, Jack Mee, reviewed the permit, he required the Applicants to either relocate or alter the deck to comply with the setbacks or to apply to the Board for a Variance.

The Applicants stated that they would incur substantial hardship if they needed to relocate the deck or alter the deck because there was a large sum of money already invested in the construction of the deck, permits, plot plans, and fees that they have already paid for.

Mr. Stumpf stated that he wished there was at least some record of support from the Applicants' neighbors. Other members of the Board concurred.

Mr. Stumpf stated that if he was looking at this as a new application, there might be some consideration due to the shape of the lot and location of the home, but there was no argument of hardship.

Mr. Arbeene stated that the deck might not have needed to be as large as it was.

The Applicants stated that there is a slight slope downwards in topography towards the fence but not a significant slope. There would be few other locations for the deck with the existing location of the pool, ac condensers, and other structures on the property.

Members of the Board stated there concerns about residents installing or constructing buildings or structures which did not comply with Zoning and then asking for relief after installation or construction rather than prior to.

A motion to continue the hearing to 7:35 pm on October 4, 2017 was made by Mr. White, seconded by Mr. Stumpf and approved unanimously.

7:35 P.M. – The Applicants, Egidio & Rose Rovedo and Patrice Green, seek Variances from Section 6.1 to allow for the construction of a single family home at 13 Clark Street. Where, under common ownership, the two lots are currently “merged” to meet the zoning requirements for frontage in the AR-I Zoning District, the applicants request to utilize these lots as separate single family parcels. The applicants seek a frontage variance for 11 Clark Street to 150.00 ft. and 13 Clark Street to 150.04 ft. where the required frontage is 180 ft.

The Applicant and his representative provided an overview of the requested Variance. 11 and 13 Clark Street (“the properties”) were purchased in 1972. The plan provided to the Board was recorded with the registry of deeds in 1973; the plan was an ANR plan signed by a member of the Medway Planning Board in 1972 and at the time the plan was signed, both lots were conforming. Both Lot 1 (11 Clark Street) and Lot 2 (13 Clark Street) meet the current dimensional requirement for area, and at the time met the requirements for frontage, which was 150 feet. The zoning changed from AR-II to AR-I and the zoning requires 180 feet of frontage. Lot 2 is currently a vacant lot and Lot 1 is currently has a single family house. Patrice is the only child of Egidio and Rose Rovedo and would like to live close to her parents; they require assistance and Patrice would like to assist them rather than them going to a nursing home. At the time of purchase, the two lots were conforming and were part of Egidio and Rose’s retirement plan, but over the years, with zoning changes, the lots have become nonconforming and lost their grandfathered protections due to the lots remaining in common ownership.

Ralph Farrington of 10 Clark Street spoke in favor of the request. There were previously three “double lots,” or lots under common ownership, when he moved to Town in 1981. Patrice explained that the existing cart path would be used as the driveway for Lot 2.

Tom Reardon of 15 Clark Street spoke in favor of the request and stated that he preferred that over knocking down the existing home. He requested to maintain the trees between the properties to which Patrice explained that she had intended to do so.

A motion to continue the hearing to 7:35 pm on October 4, 2017 was made by Mr. Stumpf, seconded by Mr. White and approved unanimously.

Approval of Minutes:

Tabled.

Upcoming Meetings:

Two new applications were received and were scheduled for October 4, 2017.

Adjournment

A motion to adjourn was made by Mr. Stumpf, seconded by Mr. White and approved unanimously. The Board adjourned at 8:33 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development