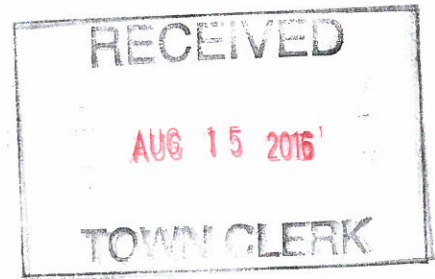


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF: **Paul LaPerriere**
 Medway Realty LLC
 Petitioner



*30 Day Appeal
Date Sept 5, 2016*

OPINION OF THE BOARD

REQUEST FOR VARIANCES
98, 108, and 114 Main Street
Medway, MA 02053

Hearing: July 6, 2016
Decision: August 3, 2016

MEMBERS PRESENT: **David J. Cole, Chairman**
 Eric Arbeene, Member
 Brian White, Member
 Rori Stumpf, Associate Member

THE WRITTEN OPINION WAS DELIVERED ON AUGUST 15, 2016

OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA (hereinafter the Board) acting under the Zoning Bylaw of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioner, Paul LaPerriere of Medway Realty LLC, requested a Variance from Section 7.2.5 (Table 5, "Multi-Tenant") of the Zoning Bylaw to allow relief from the minimum setback from any Street Lot Line (feet). The applicant is requesting a relief from the required 15 feet setback for a primary sign to 11 feet; and is also requesting a relief from the required 10 feet setback for a secondary sign to 4.8 feet.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on June 22, 2016 and June 29, 2016. Notice also was sent to all "parties of interest" and posted in the Town Hall as required by Massachusetts General Laws, Chapter 40A Section 11.

The following documents were received by the Board and included as part of the Application and file for this case:

1. Enclosure letter titled "RE: Medway Shopping Center; Signage Variance" from Attorney Bethany Bartlett regarding the submitted application and documents, dated June 16, 2016.
2. Application received and stamped by the Town Clerk and Board of Appeals on June 17, 2016.
3. Correspondence from Attorney Bethany Bartlett via email dated June 6, 2016.
4. Letter titled "RE: Medway Shopping Center (the "Center"); Signage Variance" from Attorney Bethany Bartlett regarding the request for confirmation and/or minor modification of the variance decision issued by the Zoning Board of Appeals on August 5, 2015, dated June 6, 2016.
5. Property Survey Plan of 98, 108-114 Main St, dated 5/25/16, prepared by Sugrue & Assoc., Inc. of 72 Hartford Pike, North Scituate, RI 02857.
6. Sketch Plan 2, Entrance Sign A of 98, 108-114 Main St, dated 5/25/16, prepared by Sugrue & Assoc., Inc. of 72 Hartford Pike, North Scituate, RI 02857.
7. Sketch Plan 1, Entrance Sign B of 98, 108-114 Main St, dated 5/25/16, prepared by Sugrue & Assoc., Inc. of 72 Hartford Pike, North Scituate, RI 02857.
8. Aerial Imagery of Sign Positions, dated 7/13/15, prepared by Barlo Signs of 158 Greeley St., Hudson, NH 03051.
9. Sign Elevation Plan with anticipated tenant panels, dated 5/5/15, prepared by Barlo Signs of 158 Greeley St., Hudson, NH 03051.

The Public Hearing opened and closed on July 6, 2016. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Eric Arbeene, Member; Brian White, Member; and Rori Stumpf, Associate Member. The Board voted on the request for the variances on August 3, 2016. The Board members voting were David Cole, Chairman; Eric Arbeene, Member; Brian White, Member; and Rori Stumpf, Associate Member.

Hearing Summary

The applicant, Paul LaPerriere of Medway Realty LLC, and the applicant's representative, Attorney Bethany Bartlett, appeared before the Board to discuss the request for variances for the property located at 98, 108, and 114 Main Street.

The Community and Economic Development Department staff provided to the Board documents relating to Medway Realty LLC's prior request for variances including:

1. Zoning Board of Appeals Decision, dated July 22, 2015
2. Exhibit 1: Current Tenant List from Zoning Board of Appeals Application, dated August 28, 2014
3. Exhibit 2: Additional Sheets, with explanation of request for Variance, dated August 28, 2014
4. Seven (7) pages of Sign Concept Plans, prepared by Barlo Signs of 158 Greeley St., Hudson, NH 03051, dated 7/22/15
 - a. Sign A Externally Illuminated Monument Sign
 - b. Sign A Tenant Detail
 - c. Sign B Externally Illuminated Monument Sign
 - d. Sign B Tenant Detail
 - e. Aluminum Plate Letter Details
 - f. Sign A and Sign B Aerial Sign Positions
 - g. Simulated Night View

Chairman Cole noted that the applicant had previously sought a variance for two signs at Medway Shopping Center to replace current signs. The Board granted that physical structure variance. Since then the applicant had found out that additional variances are necessary. There are no changes in sign structures or locations. However, after the previous variances were granted, a proper survey of the area revealed that the sign locations were closer to the front lot line than originally anticipated.

Attorney Bartlett explained that they already gone through a hearing process with the Board and met with the Design Review Committee. Mr. LaPerriere started sign construction while concurrently having the property surveyed. Building Commissioner Jack Mee had went out to view the sign locations and noted that the footing signs were closer to the street than permitted by the setbacks required under the Zoning Bylaw. The applicant is asking for an additional variance for the primary and secondary signs' final surveyed locations. The signs cannot be moved to a different location due to the Route 109 Transportation Improvement Project which will include the addition of a new traffic signal at the main entrance to the shopping center. The applicant has been working with the Town, the Route 109 Design Committee and surveyors to determine where the signs should be placed based on the entrances and exits as well as the landscaped areas of the shopping center to accommodate the traffic signals.

Mr. White noted that with the Route 109 Design Committee's locations of where everything needs to be to meet the specifications for entrances, approaches, and everything else from a safety standpoint determines where the signs need to be placed but after the survey it was determined that the signs where in a different location than originally anticipated. To change the locations now or to not grant the relief would disrupt the Route 109 Project and the applicant's plans. Attorney Bartlett noted that not having the variance issued would create a significant hardship on the Medway Shopping Center project as well on the Route 109 Project. The signs, if moved, would be in the middle of the parking lot and the sign design would not function as proposed.

Chairman Cole stated that a 4.8 ft. setback seemed a little tight. Mr. White asked whether the footing or the sign were encroaching on the lot line. Mr. LaPerriere noted that the footing and the sign are in the same location and are the same size. The footings were put in the landscaped areas that were necessary for the Route 109 Project. Chairman Cole asked applicant to clarify if the sign would be 4.8 ft. from the actual curb or from the lot line. Chairman Cole was concerned that the 4.8 ft. from the actual curb would hinder good visibility to be able to see around the sign. Mr. LaPerriere said it would be just from the lot line. He further added that going too much further back would interfere with the flow of traffic within the shopping center. Chairman Cole summarized that the signs need to remain where they are so that they can be read from the road as well as for traffic flow considerations; the signs are also to be in the same physical position in which they were shown throughout the previous application process. Chairman Cole asked if the curb might possibly be moved back towards the front lot line during the Route 109 Project. Mr. LaPerriere stated that the curb needs to remain where it is for the Route 109 Transportation Improvement Project.

Findings:

By a vote of 4-0-0:

1. The Board reaffirms its findings and grant of variances in its Decision of July 22, 2015 in respect of the subject lots, which variances shall remain in full force and effect.
2. The Board finds that the applicant demonstrated both during the hearing on the previous decision and at the hearing on the present application that the proposed locations of the signs were optimal for purposes of viewing the signs from traffic along Route 109 and for traffic flow within the parking lot.
3. The Board finds that, in view of the substantial distance between the existing curb of Route 109 and the front lot lines of the subject lots, the requested reduction in front setback can be granted while still leaving sufficient clearance between the front entrances and the front edges of the signs to permit good sight lines for traffic exiting the subject lots.

Relief Granted:

By a vote of 4-0-0:

The Zoning Board of Appeals hereby grants to the applicant, Paul LaPerriere of Medway Realty LLC, variances from Section 7.2.5 (Table 5, "Multi-Tenant") of the Zoning Bylaw for the property located at 98, 108, and 114 Main Street as follows:

- a) The front setback for the primary sign shall be reduced from 15 ft. to 10 ft.; and
- b) The front setback for the secondary sign shall be reduced from 10 ft. to 4 ft.

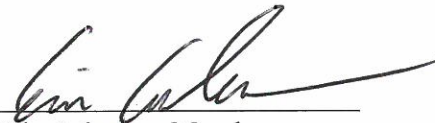
The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to MGL c. 40A, Section 17, within twenty (20) days after the date of filing this Decision with the Town Clerk.

In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, is recorded in the Norfolk County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.



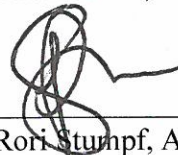
David J. Cole, Chairman



Eric Arbeene, Member



Brian White, Member



Rori Stumpf, Associate Member