

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member



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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

Wednesday, February 15, 2023, at 7:30 p.m.

Sanford Hall

Medway Town Hall

155 Village Street Medway, MA

MINUTES

Members Present: Brian White, Chair; Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Tom Emero, Member

Members Participating Remotely: none

Members Absent: Joe Barresi, Member

Also Present: Barbara Saint Andre, Director, Community and Economic Development; Anna Rice, Administrative Assistant, Community and Economic Development

Call to Order

Mr. White called the meeting to order at 7:30 p.m. and stated that this meeting is being recorded by Medway Cable Access.

3. Other Business

119 Village Street – The application is for the issuance of a **variance and/or special permit** under Section 5.4, Table 1: Schedule of Uses, and Section 5.5 of the Zoning Bylaw to change the use of the existing garage and storage building to a 2-bedroom apartment, on a lot that already has 5 dwelling units.

Elaine Ohemus, owner of 119 Village Street, was present to discuss the application. She explained that they are applying to change the existing garage and storage building to a two-bedroom apartment, and that there would not be external alterations to the structure. Mr. White asked when the building was built, Ms. Ohemus explained it was built in 2005 on the same footprint where an existing building was demolished, and it was suggested they leave it as a storage space, as designating it as an apartment would increase the taxes on the property. Mr. Phenegar asked how large the total lot is, Ms. Ohemus stated it is 0.7 acres. There are three existing buildings on the site. Mr. Phenegar confirmed that the other two buildings on the property are also rental units. Ms. Ohemus stated there are 4 units in the building at the north of the property, and a single unit in the building at the west of the property.

The Board reviewed images of the existing driveways. Mr. Emero asked if the building is connected to town sewer and water, Ms. Ohemus confirmed that the connections are existing and are capped in the building, they just need to be turned on.

Mr. White asked if the Applicant has communicated with the Conservation Commission regarding the brook at the south of the property, Ms. Ohemus stated the Conservation Commission was involved when the building was originally constructed and had them place hay bales along the buffer zone of the brook. Mr. White asked if they have plans showing the wetlands, Ms. Ohemus said they do not have plans, she believes the brook is manmade and stated there is only water in it in the spring. The Conservation Agent reviewed the current application before the hearing.

Ms. Saint Andre asked if the existing garage will be used for parking for the 2-bedroom unit. Ms. Ohemus stated the garage is used as storage, and only the owners have access to it. Ms. Ohemus' son will be the tenant of the apartment, so he is able to use the garage for parking, but in the future if a new tenant moves in, they will not have access to the garage. Ms. Saint Andre asked how many parking spots there are for the entire property, Ms. Ohemus said she believes there are 12 total, not counting the garage. Ms. Saint Andre stated that there should be no outdoor construction done to the property unless required by the building code.

Mr. White asked if there were any floor plans for the inside of the building, Ms. Ohemus stated they do not have a current floor plan, but the downstairs will remain storage, and the top floor will be 1 apartment consisting of 2 bedrooms. Mr. White asked how many are currently on the property, Ms. Ohemus stated there are currently 6 bedrooms. The proposed apartment would bring the total number of bedrooms to 8. Mr. White stated the existing parking should be sufficient for the number of bedrooms.

Mr. Phenegar asked Ms. Saint Andre to clarify what the Board would be voting on. Ms. Saint Andre stated there are two ways the Board can approach it – one way would be for the Board to determine that the property has a prior non-conforming use and make a determination under Section 5.5, that the nonconforming use could be extended through a special permit if there is no substantial detriment to the neighborhood. If the Board did not make this finding, they could grant a variance to allow the Applicant to have 6 dwelling units on the lot. Although the property is in the Multi-family Housing Overlay District, the maximum number of dwelling units that could be allowed by the Planning and Economic Development Board by special permit is less than the six requested.

Mr. Phenegar stated he was concerned about density on the property. He also noted that when apartments are created, it impacts the ratio required for affordable housing units in the Town. He confirmed that all the apartments on this property are market rate and noted that they should consider the number of market rate apartments in the Town in the future. Ms. Saint Andre stated that the Town is currently over the requirement for affordable housing units, and there will be more affordable housing units available in the Timber Crest development. She noted that the affordable housing bylaw requires that if an applicant proposes to add more than 6 dwelling units to a property, 10% must be affordable, but since Ms. Ohemus is only adding 1 unit, the affordable housing bylaw does not apply.

Mr. White stated that his inclination is that it seems the intention for the building was always for it to become a living space and believes that it is a pre-existing non-conforming structure and does not derogate from the neighborhood, the Board agreed. Mr. Emero stated that he believes that converting the building to a dwelling unit would be the best use of this property, and that it would positively contribute to the need for housing.

Mr. White asked what the process would be to grant a special permit for the application, Ms. Saint Andre stated the Board would have to make a finding that the property is a pre-existing non-conforming use as five dwelling units, and that granting a special permit under Section 5.5.D of the Zoning Bylaw to allow the Applicant to extend the non-conforming use to add a sixth dwelling unit would not be substantially more detrimental to the neighborhood. The Board reviewed the special permit criteria under Section 5.5.D.

With a motion made by Brian White, seconded by Gibb Phenegar, the Board made a finding that the property has a preexisting non-conforming use for 5 dwelling units by a vote of 4-0.

With a motion made by Brian White, seconded by Gibb Phenegar, the Board finds that the extension of the pre-existing nonconforming use would not be substantially more detrimental to the neighborhood by a vote of 4-0.

The Board reviewed the proposed conditions for the decision, Ms. Saint Andre reviewed the boilerplate conditions. Mr. White stated there were communications from the Conservation Agent and the Superintendent of Highway that would be added to the conditions. Ms. Saint Andre noted that the Department of Public Works (DPW) suggested the unused curb cut be raised to meet the sidewalk so it can not be used as an entrance to the property. The applicant felt it would be burdensome to have to make alterations to the sidewalk, where they are just converting an existing building to an additional unit. Mr. Emero suggested putting a small decorative fence along the front of the property up to the walkway, which would render the curb cut ineffective, but would save the Applicant time and money. Mr. White asked if leaving the curb cut as it currently exists would cause issues with any future transferring of property, Mr. Emero noted that the property will have a condition that no additional impervious surface will be added, and therefore a future owner could not put in a driveway at the curb cut. Mr. White stated that should the DPW redo the sidewalks in that area, they should eliminate the extra curb cut. Ms. Saint Andre stated that the only additional conditions beyond the usual boilerplate conditions will be regarding the restriction of additional impervious surfaces and outdoor additions.

Motion to grant the special permit request for 119 Village Street with conditions set forth made by Gibb Phenegar, seconded by Christina Oster, passed by a vote of 4-0.

Motion to close the public hearing for 119 Village Street and to allow any one member of the Board to sign the decision made by Gibb Phenegar, seconded by Christina Oster, and passed by a vote of 4-0.

3. Other Business

4. Approval of Minutes

- February 1, 2023

Motion to approve the minutes for February 1, 2023, as presented made by Gibb Phenegar, seconded by Christina Oster, passed by a vote of 4-0.

5. Upcoming Meetings

- March 1st – 21 High Street – continuation from February 1, 2023.
- March 15th – 7 Sanford Street

6. Adjournment

Motion to adjourn the meeting at 8:11 p.m.

Respectfully submitted,

Anna Rice

Administrative Assistant, Community and Economic Development

Edited by

Barbara J. Saint Andre

Director, Community and Economic Development

List of Documents Reviewed at Meeting (attached)

1. Plot plan for 119 Village Street showing existing conditions.
2. Photos of the property at 119 Village Street.
3. Boilerplate conditions for 119 Village Street Special Permit decision.