

Board Members  
Rori Stumpf, Chairman  
Brian White, Vice Chair  
Gibb Phenegar, Clerk  
Christina Oster, Member  
Tom Emero, Member  
Carol Gould, Associate Member



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## TOWN OF MEDWAY

### COMMONWEALTH OF MASSACHUSETTS

## ZONING BOARD OF APPEALS

**Wednesday, February 3, 2021 at 7:30 p.m.**

**Virtual Meeting**

### **Meeting Minutes**

**Present (virtually):** Rori Stumpf, Chairman; Brian White, Vice Chair; Gibb Phenegar, Member; Tom Emero, Member; Christina Oster, Member; Carol Gould, Associate Member

**Also Present (virtually):** Barbara Saint Andre, Director, Community and Economic Development  
Stefany Ohannesian, Administrative Assistant, Community and Economic Development

### **Call to Order**

Chairman Rori Stumpf called the meeting to order at 7:30 p.m. and read that this meeting is being broadcast and recorded by Medway Cable Access. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor's Orders imposing strict limitations on the number of people that may gather in one place, no in-person attendance of members of the public will be permitted at this meeting. Board members will be participating remotely. For public hearings, access via Zoom is provided for the required opportunity for public participation. Information for participating via Zoom is posted at the end of the ZBA Agenda on the town website. He then read instructions on how to participate in the meeting. All persons participated remotely in the meeting via Zoom. Mr. Stumpf introduced all Board members participating remotely in the meeting.

Mr. Stumpf stated that member Gibb Phenegar has recused himself from this hearing. Therefore, he stated that associate member Carol Gould will sit in on this hearing.

### **Public Hearing**

**65 Main Street** - The application is for the issuance of a **use variance** from Section 5.2(A); and **variances** from the following sections of the Sign Bylaw: Section 7.2.3 for signs not expressly permitted or exempted, and which are prohibited under Section 7.2.3 (B, D, K, and T), 7.2.4 (C)(1), 7.2.4(D), 7.2.4(F)(5), 7.2.5 (B)(1) and 7.2.5 Table 5 of the Zoning Bylaw, for the installation, operation and maintenance of 2 electric vehicle charging stations with built-in variable image signs at the existing shopping plaza.

The applicant's representative, attorney Michael Dolan from Brown Rudnick, was present and explained the application. The charging stations have already been installed in the parking lot outside Shaw's in the Medway Commons plaza. There is no charge to the users for the electricity; Volta sells advertising space on the charging stations to advertisers which generates the revenue for the electricity. Attorney Dolan stated that Volta received an electrical permit but did not realize they needed zoning relief from the ZBA at the time of installation. He then went over the variance criteria and explained why he believes the criteria are met as presented in the application. He explained that the signage will not be visible from the

public road and has minimal visual impact. The advertisements do not use video or sound, and the images rotate every eight seconds for best practices to avoid distracting drivers. Volta has about 1500 of these stations around the country, including in Framingham, Natick, and Marlborough. He also noted that the signs have been used to make public service announcements and they are willing to continue to do so. There is a letter of support from the Medway Energy and Sustainability Committee.

John Lawrence, from Volta Charging LLC was present and spoke about the company and their business model. Attorney Dolan stated that they applied for the use variance, but he does not believe they need it. They do need the sign variances to operate. He explained they are helping the community by offering free charging for users, and also helping the local businesses because it has been shown that sales increase in the businesses that have these charging stations installed around them. It also assists in the Town's sustainability. The visual impact is minimal in a large parking lot and cannot be seen from the street.

Ms. Oster inquired about what the space looked like before the stations were installed and how many other charging stations are in the Town. Attorney Dolan explained he was not aware of any other charging stations like these in Town besides ones installed by the Town itself, which do not have advertising. Ms. Oster inquired about how long they have been installed, it was answered they have been there about a year, since February 2020. Attorney Dolan stated they have received proper permission from the landlord, but it took some time to do that due to the level of management within Shaw's. Mr. White inquired if any of their stations do not have screens or advertisements, Ms. Paslawski of Volta stated that occasionally they will install what they call "towers" which are non-media enabled units, they are not free for the business as the business would pay for the electricity. It was explained that the site partner here is Shaw's, but Shaw's is not involved in the operation of the station itself. Mr. Emero inquired, if he stayed in the store for 1 hour, how much would his car end up getting for a charge. Ms. Paslawski stated that it varies on the car and charge it already has. Ms. Applegate of Volta explained typically there is a 10 kilowatts charge or a charge that generates 15 – 20 miles per hour of charging. There was a discussion whether Volta could change their model to charging the customers, and if the Board should impose a condition if the application is approved to prevent that.

Jessica Chabot, member of both Design Review Committee (DRC) and Planning and Economic Development Board (PEDB) and representing each, summarized the letters submitted to the Board. She explained both PEDB and DRC are not in favor of ZBA granting the variance requests. The DRC letter focused on the multiple violations of the current sign bylaw caused by the signs. Although the PEDB is in favor of EV charging stations, the members are not in favor of the signage requests. Mr. Stumpf inquired about what the harm would be for the Town if these variances were approved or what would the damage be to the town. Ms. Chabot explained that every time an approval like this takes place it sets a precedent for the Board. Mr. Stumpf stated that each application is different, and the Board does not set a precedent. This is an application the Board has never had before and there is not a clear by-right bylaw to handle this type of request.

Glenn Trindade, member of the Board of Selectmen, stated that he is present as a resident not representing the Board of Selectman. He stated that he has not noticed the signs since they have been installed a year ago. He stated that the Town wants to encourage more capability for people to have opportunities to have an electrical vehicle, the more this type of benefit can be encouraged the better, and if it was not this type of model there would not be charging stations in this plaza at all. He stated that he is in favor of granting the variances but mentioned that the Town and DRC need to take a closer

look at the bylaw.

Andy Rodenhiser, Chairman of the PEDB, stated that he saw the charging stations the first day they were installed, and he does not appreciate that this is an after the fact application. He believes the applicant should withdraw and give the Town a chance to review the bylaw and reapply at a later date.

Mr. Stumpf stated that he drove by the charging stations. He mentioned some of the existing signs that are in the plaza, i.e. Starbucks, Shaw's and the sign at the entrance, which are larger and more conspicuous. He stated he was trying to look at the charging stations and see if they will change the look and feel of the shopping center, which he does not feel that they will. He stated that if they are not here in Town, maybe there will be stations installed in another location not in Town and draw customers out of Town to use this type of service. Factors such as the stations are over 400 feet away from the street, they are not visible from any residence and they are in a commercial zoning district make it difficult for him to express opposition. He believes this is a good thing for Medway.

Ms. Oster stated that she agrees with Mr. Rodenhiser that the proposed electric vehicle charging stations with signage should go through the proper process, including compliance with the Town's design review criteria. She feels that public benefit insofar as the free charging is limited, versus the primary impact of the signage. She stated she is not in favor of this request. Mr. Emero clarified that if the applicant complied with the design guidelines and sign bylaw, the stations would not be able to be installed at all.

Attorney Dolan stated that Volta is a California based company and they were not aware of the bylaw requirements before installation. Ms. Chabot clarified that the signs mentioned earlier by Mr. Stumpf have been approved by the DRC and meet the requirements. She also stated that the applicant did not apply to the DRC for a sign permit. There is a discussion around an email the applicant received from Town staff that the DRC could not hear an application because the signs do would not meet the sign bylaw, and require a variance first.

Mr. White inquired about any suggestions the DRC may have for potential conditions if this is approved. Ms. Chabot stated that there are too many components with the signs that are out of compliance. The applicant is not meeting landscaping requirements, the eight second loops and hours of operations are all not in compliance. Ms. Paslawski stated Volta is willing to work with the Board to comply with anything they ask.

Ms. Saint Andre stated that these are signs that require a sign permit. If there are any conditions, the Board should include them, but there is provision that sign permits get referred to DRC. Ms. Chabot stated they would appreciate working with the applicant if the variances get approved. There was a discussion around a potential landscaping condition, which some of the Board members did not think would be necessary. Mr. Rodenhiser stated that the stations are chargers as well as sign advertisements. Ms. Paslawski stated that since shutting off the advertising screens people are still able charge their vehicles.

Mr. Stumpf then discussed the variance criteria with Attorney Dolan, who answered all four criteria in his opinion and as stated in their application. Mr. Stumpf inquired with the Board about the detriment to the Town which there was no response from any of the members. Mr. Stumpf decided to proceed to a vote to see how the members of the Board favored.

**Motion made that the Applicant has met all of the required variance decision criteria by Brian White, seconded by Tom Emero, roll call vote of 3-2.**

**Christina Oster – Nay**

**Tom Emero – Aye**

**Brian White – Aye**

**Carol Gould – Nay**

**Rori Stumpf – Aye**

**Motion to grant the use variance and variances as set forth in the application for 65 Main Street electric vehicle charging stations with conditions set forth, by Brian White, seconded Tom Emero, did not pass with a roll call vote of 3-2, four votes being needed to grant a variance.**

**Brian White – Aye**

**Carol Gould – Nay**

**Tom Emero – Aye**

**Christina Oster – Nay**

**Rori Stumpf – Aye**

Ms. Gould stated that she does not see the financial hardship for the applicant and did not appreciate that this is an after the fact application.

Ms. Oster stated that she agreed with the opinions of the PEDB and DRC and that there is no financial hardship because they have been there a year with the advertising not in operation. Both Ms. Oster and Ms. Gould believe the applicant does not meet criteria 1 or 2, there are no special circumstances related to the shape, topography or soil conditions of the lot, or financial or other hardship.

Ms. Paslawski stated that she wanted to apologize on behalf of Volta and that they are a small business located in California unaware of Medway zoning requirements.

Mr. Rodenhiser invited the applicant to keep the stations there and work with the Town to craft a bylaw so that a variance would not be needed in the future. Mr. Trindade agreed and stated that they are very willing to work with the applicant to get these charging stations into the Town. Ms. Paslawski stated that Volta would be willing to do that.

**Motion to close the public hearing for 65 Main Street vehicle charging stations and to allow any one member of the Board to sign the decision by Brian White, seconded by Tom Emero, passed with a roll call vote of 5-0.**

**Brian White – Aye**

**Carol Gould – Aye**

**Christina Oster – Aye**

**Tom Emero – Aye**

**Rori Stumpf – Aye**

#### **Other Business**

- Discuss potential Zoning amendments for Annual Town Meeting

There was nothing further to discuss at this meeting.

- To review and consider Tetra Tech estimate for Construction Observation for 39 Main Street project

Ms. Saint Andre explained that the applicant was already given the prior estimate and the applicant had already given a check to the Town, and any change in the amount of the estimate would not be significant, therefore the estimate will remain the same.

**Motion to approve the Tetra Tech estimate for Construction Observation for 39 Main Street 40B project made by Brian White, seconded by Tom Emero passed with a roll call vote of 4-0.**

**Tom Emero – Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

#### **Upcoming Meetings**

- February 17, 2021 - No new applications
- March 3, 2021

#### **Approval of Minutes**

- January 20, 2021

**Motion to approve the minutes for January 20, 2021 as presented made by Brian White, seconded by Christina Oster passed with a roll call vote of 4-0.**

**Tom Emero – Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

#### **Adjournment**

**Motion to adjourn the meeting at 8:56 p.m. made by Tom Emero, seconded Brian White passed with a roll call vote of 4-0.**

**Tom Emero – Aye**

**Christina Oster – Aye**

**Brian White – Aye**

**Rori Stumpf – Aye**

Respectfully submitted,

Stefany Ohannesian

Administrative Assistant

Community and Economic Development

Edited by

Barbara J. Saint Andre

Director, Community and Economic Development