

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

MINUTES OF MEETING

April 4, 2018

Present: Chair Eric Arbeene; Vice Chair Brian White; Rori Stumpf, Christina Oster

Also present: Mackenzie Leahy, Administrative Assistant, Community & Economic Development

Chairman Arbeene called the meeting to order at 7:36 PM.

Announcements:

Mr. Arbeene welcomed the Board's new associate member Christina Oster to the ZBA.

Mr. Arbeene announced that Barbara Saint Andre had been hired as the new Director for Community & Economic Development and welcomed her to the position.

Citizen Comments:

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

Public Hearings:

- The Applicant, Sharon Dupiche-Carlista, seeks a Variance from Section 6.1 of the Zoning Bylaw to split the property into two lots. Where, under common ownership, the two lots are currently "merged" to meet the zoning requirements for frontage and area in the VR Zoning District, the applicant requests to utilize these lots as separate parcels.

The Applicant and their representative, Stephen Kenney, were present. Mr. Kenney provided assessor's records to the Board showing that the land has been assessed as separate parcels, and are described as separate parcels on a deed. The parcels were created at a time when zoning was not in place in the Town of Medway. The parcels are pre-existing nonconforming, however, under MGL C. 40A Section 6, where the lots do not meet minimum lot size or frontage and they are under common ownership, they are "merged" into one lot for zoning purposes.

Mr. Kenney stated that they believed that substantial hardship would occur where Ms. Dupiche-Carlista purchased two lots according to the deed. The existing home needs extensive maintenance and Ms. Dupiche-Carlista is a single mother with a son whose medical bills aren't covered by insurance.

The surrounding neighborhood has lots of similar size as to what the applicant is requesting for the two separate lots.

Mr. Kenney stated that the applicant hopes to convey the lot as a buildable single family lot. The sale from the lot would help to cover renovations of the existing home and medical bills.

Mr. Stumpf noted that if the lot was divided, the existing garage would be noncompliant with setback requirements. Ms. Dupiche-Carlista stated that the garage needs extensive maintenance as is and would be willing to take it down or would need to apply for the appropriate variances.

Mr. White asked if there had been any topographic or survey studies to ensure that there was the required amount of uplands for the property. Ms. Dupiche-Carlista noted that there hadn't been any studies or surveys but she would be happy to move forward with testing after preliminary approval.

Mr. Stumpf noted that it was difficult where the legal standing was for the requested variance. Mr. White stated that he felt additional information was necessary.

The Board moved to public comment.

Theresa O'Brien, 32 Wellington St, spoke in opposition of the proposed request.

Tim Rice, 19 Lincoln Street, stated that he didn't abut the property but lived in the neighborhood. Mr. Rice was concerned because a property owner recently split a lot on Mann Street and added a new house that did not fit into the surrounding neighborhood. Mr. Rice did not want to see the same thing happen to this lot. Mr. Rice also stated that it was clear that the house on needed work when it was for sale and that was clear to see, he also understood from the time of sale that it was to be considered one lot.

Mike Janikas, 19 High Street, spoke in opposition of the proposed request and stated that it did not make sense to split one lot into two nonconforming lots, even though two lots may show on paper.

Caren Carew, 18 High Street, spoke in opposition of the proposed request. Ms. Carew noted that it was understood that the property in question was to be considered one lot.

Mary O'Brien, 32 Wellington Street, spoke in opposition of the proposed request.

Kathleen Murray, 32 Wellington Street, spoke in opposition of the proposed request.

Mr. White stated that based on the Applicant's testimony and the testimony from neighbors, that additional information was necessary. The Board concurred.

By a vote of 4 to 0, on a motion made by Brian White and seconded by Christina Oster, the Board continued the hearing for 30 Wellington St to April 18, 2018 at 7:35 pm.

- The Applicants, Sharon Knight & Daniel Macias, seeks a Variance from Section 7.2.5 of the Zoning Bylaw for a sign to exceed the 12 foot maximum height for a "projecting sign." The applicant requests a maximum height of 18 feet.

The Applicants were not present. The Board decided to open the hearing.

Mackenzie Leahy, Administrative Assistant, briefly explained why the applicant had moved forward with the request, the immediate concern being safety where the sign had already been hit by a delivery vehicle, damaged, and if the sign was reinstalled in the same location, complying with the Zoning Bylaw, the sign could be hit again and could potentially pose a more severe threat of safety, specifically referencing the application and the comments provided by the Fire Chief and Building Department.

There were no members of the public in favor or in opposition of the request.

The Board briefing deliberated and were understanding that the applicants had tried to "do the right thing" by complying with the Zoning Bylaw and in turn had their sign damaged, costing the applicants additional funds as a new business, and the location also posed a safety concern.

The Board felt that the request was straight-forward and grant of the request was necessary.

The Board found that the applicant provided sufficient evidence that with the shape of the lot and improvements upon it, the twelve foot height restriction creates a hazard for emergency and delivery access and a hazard to persons on the property. Motion by Mr. White, seconded by Mr. Stumpf, approved unanimously.

The Board found that the applicant would incur repeated financial hardships and potential liability for a falling and/or broken sign if the 12 foot height restriction was enforced. Motion by Mr. White, seconded by Ms. Oster, approved unanimously.

The Board found that the business for which the sign is needed is located within the Central Business District. As the area has existing commercial character, with businesses represented by signs much larger than that of the proposed, an increase to the height of the existing sign to 18 feet would not derogate from the intent of the Zoning Bylaw. Motion by Mr. White, seconded by Ms. Oster, approved unanimously.

By a vote of 4 to 0, on a motion made by Rori Stumpf and seconded by Brian White, the Medway Zoning Board of Appeals GRANTED to Sharon Knight and Daniel Macias, dba Tumble Beans Café & Play, a VARIANCE from Section 7.2.5 height requirements for a projecting sign in the Central Business District. The maximum height of 12 feet is increased to a maximum height of 18 feet, for the business located at 114 D Main Street (Parcel ID 40-057).

Any other business that may properly come before the Board:

53 West Street – Nonconforming Uses & Structures – Request for Determination

Ms. Leahy, Community & Economic Development, explained why the applicant was requesting a determination rather than applying for a special permit. So long as the Board found that any change to a nonconforming one-family did not increase the nonconforming nature of the structure, the Board could provide a finding to the Building Department and they could sign off on the building permit without requiring a hearing process or a special permit.

The Applicant's representatives explained that the applicant was looking to tear down and build a new single family home on the property and would be meeting all current setback and height requirements. The issue being that the property does not meet the dimensional requirements for frontage or area.

The board saw no issue with the request.

By a vote of 4 to 0, on a motion made by Rori Stumpf and seconded by Brian White, the Board found that the proposed single family would not result in an increase to the nonconforming nature and may be permitted through the building department without requiring a special permit.

Notice of Project Change – Timber Crest Estates Comprehensive Permit – Request for Determination

The Applicant, Mounir Tayara, provided an overview of the proposed changes. Mr. Tayara was recently presented with the option to provide an easement across 13 Fairway Lane which would eliminate wetland crossings, reducing impacts to the wetlands. The road from 21R Fairway Lane would become a shared driveway with a turnaround, and the primary entrance to the eastern portion of the development would be from Holliston Street with the emergency egress off 13 Fairway Lane. Mr. Tayara has already met with the Fire Chief to ensure that what he is proposing satisfies the Fire Department.

There were some concerns by the Board about the changes to traffic flow.

Ms. Leahy ask the applicant if they were looking for the same waivers for the emergency egress as the project area for the comprehensive permit. The Applicant stated that they were. Ms. Leahy stated that, in that case, the emergency egress and limit of work should be included in the project boundaries.

Mr. White stated that everything proposed was an improvement, except for the concerns about the increase in traffic exiting Holliston Street.

Mr. Stumpf stated that based on the Comprehensive Permit guidelines, he saw no was that the Board could consider the proposed changes substantial.

Mr. White stated that he felt there was a potential life safety issue, but whether or not that merited a substantial change could not be determined based on those guidelines.

Residents from Fairway Lane attended requesting clarification of procedure. The Board explained that when final plans are submitted, there will be additional review of the proposed changes.

By a vote of 4 to 0, on a motion made by Rori Stumpf and seconded by Brian White, the Board found that the proposed changes to the comprehensive permit were insubstantial.

Discussion of Zoning Board of Appeals Rules & Regulations Amendments – Tabled.

Correspondence:

None.

Approval of Minutes:

2/21/18: Motion by Mr. Stumpf, seconded by Mr. White to approve the minutes as amended. Approved unanimously.

Upcoming Meetings:

April 18 – There are two new hearings scheduled for April 18th, and 30 Wellington Street has been continued to this date.

May 2 – No new applications at this time.

Adjournment

A motion to adjourn was made by Mr. White, seconded by Mr. Stumpf and approved unanimously. The Board adjourned at 10:37 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development