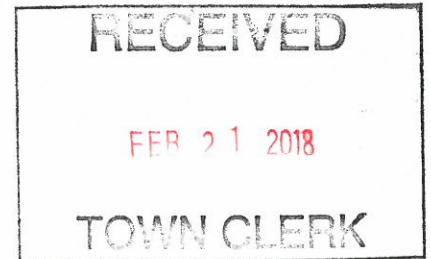


Town of Medway
ZONING BOARD OF APPEALS
155 Village Street, Medway, MA 02053

Eric Arbeene, Chair
Brian White, Vice Chair
Carol Gould, Clerk
Bridgette Kelly, Member
Rori Stumpf, Member

**DECISION
VARIANCES
50 ALDER STREET**



*20 day Appeal
March 13, 2018*

Date Application Filed: January 11, 2018

Applicant(s): Philip Anza ("the Applicant")
119 Milford Street
Medway, MA 02053

Location of Property: The Project is located on a parcel of land in Medway located at 50 Alder Street (Assessor Parcel ID: 63-001-0001).

Approval Requested: Variance from Section 5.4 of the Zoning Bylaw to grant the use of an automotive sales and services business in the Industrial III Zoning district where prohibited; and also to allow for a Variance from Section 6.1 of the Zoning Bylaw for the reduction in the required front yard setback from 30 ft. to 24.9 ft. for the construction of the proposed building.

Members Participating: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Bridgette Kelly, and Rori Stumpf

Members Voting: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Bridgette Kelly, and Rori Stumpf

Hearing Opened: February 7, 2018

Hearing Closed: February 7, 2018

Date of Decision: February 7, 2018

Decision: Granted



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Hearing Opened: February 7, 2018

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Date of Decision: February 7, 2018

Decision: Granted

I. PROCEDURAL HISTORY

1. On January 11, 2018, the Applicant filed a Variance application, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, for a Variance from Section 5.4 of the Zoning Bylaw to grant the use of an automotive sales and services business in the West Industrial zoning district (formerly known as Industrial III Zoning district) where such use is prohibited; and also to allow for a Variance from Section 6.1 of the Zoning Bylaw for the reduction in the required front yard setback from 30 ft. to 24.9 ft. for the construction of the proposed building.
2. Notice of the public hearing was published in the Milford Daily News on January 24, 2018 and January 31, 2018, and notice sent by mail to all interested parties, and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on February 7, 2018. The Board closed the public hearing the same evening.
4. The Property is located in the West Industrial, “WI,” (formerly Industrial III, “I-III”) District. The front setback requirement is 30 feet, the side setback, 20 feet, and the rear setback, 30 feet. The minimum lot area requirement is 40,000 s.f.
5. The Board notified Town departments, boards and committees of this application. The Board did not receive any comments.
6. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal’s files and listed in Section V. of this Decision.

II. TESTIMONY

At the February 7, 2018 meeting, the hearing was opened by the Board.

Ms. Leahy, Community & Economic Development Department, explained that it was necessary for the Applicant to come before the Board when the Applicant had already received the appropriate variances in August of 2016, due to the fact that variances are valid only for a year unless “exercised,” and the Applicant had not taken any action on the variances.

The Applicant explained that he planned to move his business from its current location at the northern end of Trotter Drive down to the western end of Alder Street. The Applicant owns the property. Shortly after receiving the variances, he had a number of personal matters arise which took precedence over beginning work on his new location. The Applicant was requesting the same two variances as the Board had previously granted—a variance from the front setback for the location of the proposed building and a use variance for automotive sales and service.

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

III. FINDINGS

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A, as amended, and by the Medway Zoning Bylaw. The Board also considered evidence and testimony presented at the public hearing and comments submitted by residents placed in the public record during the course of the hearings.

A. Variance Criteria

1. *Circumstances relating to the shape, topography, or soil conditions of the subject property, which do not generally affect other land in the zoning district:*
 - a. The applicant demonstrated that the limited size of the subject lot, and the presence of substantial amount of wetlands thereon, render the subject lot essentially ill-fitted for the industrial uses prescribed by the Zoning Bylaw and that a small commercial use represents an effective use of the subject lot.
 - b. The Board finds that the location of the wetlands on the subject lot, and the desirability of maintaining a substantial separation between the wetlands and the construction needed for the proposed automotive sales and service building, render it desirable to place the building significantly closer to the front lot line than permitted by current zoning.
2. *Substantial hardship caused by the circumstances from Criteria A.1 when the Zoning Bylaw is literally enforced:*
 - a. The proposed use, although not permitted under the Zoning Bylaw, is not of a type which would be disruptive to permitted uses in the zoning district and hence that the requested relief can be granted without substantial detriment to the public good or excessive deviation from the intent of the Zoning Bylaw. Further, this is relocation of a business already within the zoning district to a more suitable location.
3. *Why/how the grant of relief would not nullify or derogate from the intent of the Zoning Bylaw:*
 - a. The applicant has previously conducted a similar business within the same industrial zoning district for a number of years without objection from his present neighbors and that the owners and/or occupiers of the lots adjacent to the subject lot have raised no objections to the proposed use.

The Applicant has provided documentation in the Variance application form submitted with this application and as explained during the hearing to satisfy the requested Variances.

IV. CONDITIONS OF APPROVAL

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board **GRANTS** the Applicant(s), Philip Anza, **VARIANCES** from the requirements of Sections 5.4 and 6.1 of the Zoning Bylaw for the property located at 50 Alder Street for the use of the Lot as an Automotive Sales and Service and to permit construction to a front setback of 24 feet instead of the 30 feet.

1. These Variances are subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the Variances that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a new request.

Any work or use that deviates from this Decision shall be a violation of the *Medway Zoning Bylaw*.

2. Upon receipt of a written request by the applicant filed at least thirty (30) days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested. If no request for extension is filed and approved, the Variances shall lapse one year from the date of Decision, unless action is taken, or as may be otherwise specified herein, and may be reestablished only after a new filing, hearing, and decision.

V. INDEX OF DOCUMENTS

A. The Variance application included the following plans and information that were provided to the Board at the time the application was filed:

1. General Application Form
2. Variance Application Form
3. Enclosure letter regarding Variance Application to the Zoning Board of Appeals from Grady Consulting, L.L.C. regarding the submitted application and documents, dated 5/23/16
4. Property Site Plan (7 pages of plans) of "51 Alder Street," dated March 30, 2016, prepared by Grady Consulting, L.L.C. of 71 Evergreen Street, Suite 1, Kingston, MA 02364
5. Response letter to the Board's comments made at the July 6, 2016 public hearing from Grady Consulting, L.L.C., dated 7/15/16
6. ZBA Decision for 50 Alder Street, dated August 15, 2016

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms hereinafter set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days (20) after the filing of this notice in the Office of the Medway Town Clerk.

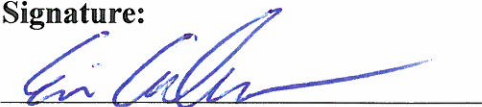
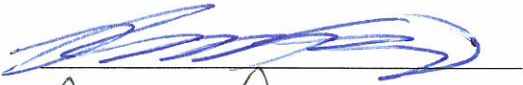
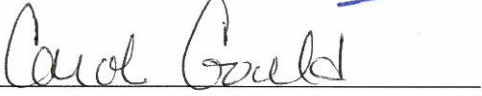


In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, 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 within said twenty day period or that any duly filed appeal has been dismissed or denied. The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

The next page provides the signatures of the Board.

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VI. VOTE OF THE BOARD

By a vote of 5 to 0 , on a motion made by Rori Stumpf and seconded by Brian White, the Zoning Board of Appeals hereby **GRANTS** the Applicant(s), Philip Anza of Alder Street Realty LLC, **VARIANCES** from the requirements of Sections 5.4 and 6.1 of the Zoning Bylaw for the property located at 50 Alder Street for the use of the Lot as an Automotive Sales and Service building and to permit construction to a front setback of 24 feet instead of the 30 feet prescribe by the Zoning Bylaw **SUBJECT TO THE CONDITION** that the building shall be constructed substantially in accordance to the plans submitted with the application prepared by Grady Consulting, LLC of 71 Evergreen Street, Kingston, MA 02364, dated March 30, 2016.

Member:	Vote:	Signature:
Eric Arbeene	<u>YES</u>	
Brian White	<u>YES</u>	
Carol Gould	<u>YES</u>	
Bridgette Kelly	<u>YES</u>	
Rori Stumpf	<u>YES</u>	

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