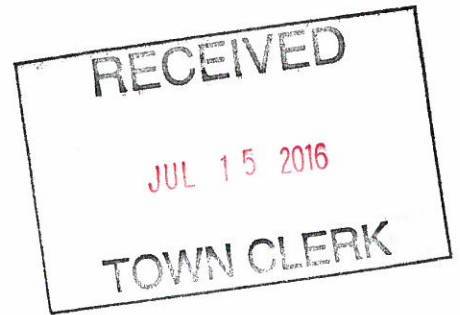


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Jeffrey F. Grenon Jr.
 Petitioner**



OPINION OF THE BOARD

**REQUEST FOR VARIANCES
6 Norfolk Avenue, Medway, MA 02053**

**Hearing: July 6, 2016
Decision: July 6, 2016**

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

THE WRITTEN OPINION WAS DELIVERED ON JULY 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, Jeffrey F. Grenon Jr., requested a Variance from Section 6.1 of the Zoning Bylaw to allow for the reduction of a side setback from 15 ft. to 8 ft. and a rear setback from 15 ft. to 5 ft. for a vinyl 1 car - carport garage; and also requested a Variance from Section 6.1 of the Zoning Bylaw for the reduction of a side setback from 15 ft. to 1 ft. and a rear setback from 15 ft. to 9 ft. for a vinyl 2 car - carport garage for the property located at 6 Norfolk Avenue, Medway, MA 02053.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on June 15, 2016 and June 22, 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. Application received and stamped by the Town Clerk and Board of Appeals on June 10, 2016.
2. Plan of Land for 6 Norfolk Avenue, dated June 29, 1993, prepared by Guerriere & Halnon, Inc. Engineering & Land Surveying of Milford, Whitinsville, and Franklin MA received with the Application.
3. Hand-drawn 12'x20' 1 car vinyl carport garage and 20'x20' 2 car vinyl carport garage location depictions by the applicant, Jeffrey F. Grenon Jr., atop the submitted Plan of Land received with the Application.
4. Two (2) aerial, two (2) street-view, and seven (7) property photos provided by the applicant, Jeffrey F. Grenon Jr., received via email on June 13, 2016.
5. One (1) aerial and two (2) street-view property photos provided by the applicant, Jeffrey F. Grenon Jr., received at the public hearing on July 6, 2016.
6. Outline of zoning district from the Town of Medway 2015 Zoning Map and a hand drawn property location on said zoning map by the applicant, Jeffrey F. Grenon Jr., received at the public hearing on July, 6, 2016.
7. A document provided by the applicant, Jeffrey F. Grenon Jr., with signatures of support from the adjacent abutting properties of 6 Norfolk Avenue.

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 July 6, 2016. The Board members voting were David Cole, Chairman; Eric Arbeene, Member; Brian White, Member; and Rori Stumpf, Associate Member.

Hearing Summary

The applicant, Jeffrey F. Grenon Jr., appeared before the Board to discuss his request for variances for the property located at 6 Norfolk Avenue.

The applicant explained that the subject lot, his home, is located in the Commercial IV zoning district; he has recently purchased the home that has been in his family for multiple generations. The vinyl carport garages had previously been erected at another location but had been moved to 6 Norfolk Avenue after purchase. If he had had the funding, he would have preferred something more permanent, but the vinyl carports currently offered a reasonable and affordable solution to the amount of storage space he desired.

The applicant stated that it is difficult for the carport garages to be in accordance with the Bylaw; the lot is nonconforming to the dimensional and density regulations within the Commercial IV zoning district. The minimum lot area in the C-IV district is 20,000 square feet (approximately 0.459 acres) and the applicant's property is 0.24 acres. In addition to the lot size, the placement of the existing home and garage on the lot also presents further difficulties. The proposed placement of the carport garages within the side and rear setbacks was intended to minimize their visibility from the street by allowing for natural tree and shade coverage while still allowing the applicant to have a usable backyard space.

The applicant provided supporting documents to confirm that there are other nonconforming structures that lay within the setbacks of abutting properties and also that there are other nonconforming garage structures within abutting properties.

The applicant stated that he had spoken with his immediate neighbors and they are supportive of his request; four of his immediate neighbors signed a letter stating that they had no issue with the current locations of the carport garages. The applicant noted that the neighbor at 4 Norfolk Avenue helped erect one of the structures on the lot. The resident of 19 Guernsey Street did voice their concerns of the structures' potential to degrade the assessing value of abutting properties. The resident of 8 Norfolk Avenue voiced their wish to revisit the variance if the applicant or future lot owner should express any interest in replacing the current structure or building a new structure. The applicant stated that he maintained the carport structures, replacing the vinyl every few years and kept three layers of vinyl on each structure to help prevent the damage caused by natural elements. Residents of 19 Guernsey Street and 8 Norfolk Avenue attested that the applicant has maintained the structures very well and they are satisfied with the current conditions, so long as their maintenance is continued.

The Board discussed with the applicant the criteria for granting a variance under MGL c. 40A Section 10, and expressed concerns regarding whether or not the hardships fell under the criteria of granting variances. The board inquired why the applicant was requesting the specific locations for the carports in the application and also how the carports could be considered permanent structures when they lacked permanent foundation or materials. Medway Community and Economic Development Director, Stephanie Mercandetti, explained that the carports were existing structures and since the applicant would like to keep the structures in place for more than 180 days, they would not be considered temporary structures. She added that the Medway Building Commissioner, Jack Mee, had received a complaint regarding the two structures, and had given notice to the applicant that he had to comply with the Bylaw or that he could apply for a variance through the Board. Community and Economic Development Administrative Assistant, Mackenzie Leahy, commented that these structures could also not be considered temporary structures because they were affixed to the ground, and were thus deemed permanent structures, regardless of the structures' materials. As defined in the Bylaw,

anything constructed or erected at a fixed location on the ground to give support or to provide shelter is regarded as a structure.

Ms. Leahy inquired about the current costs to replace the vinyl every few years and if the applicant had researched the costs of building more permanent structure(s). The applicant stated that the vinyl for the 1 car - carport garage cost around \$75 for replacement and \$125 for the 2 car - carport garage; the estimate the applicant received for two more permanent ports or garages would cost around \$60,000. The applicant reiterated that if he had the available funding he would also prefer something more permanent.

The board noted that the topography nor the soil conditions would cause significant hardship for the applicant and that the shape of the lot was the only segment under MGL c. 40A Section 10 in which the applicant's request for variances qualified for. The Board acknowledged that although nonconforming lot size and building placement is not technically deemed a hardship, in this instance it was limiting towards the applicant's request.

During deliberations, the Board reviewed the applicant's submitted materials and recognized that since the structures are pre-existing with materials within them already that they would be difficult to move, reducing the opportunity to grant a variance with terms to move the structures within more reasonable setbacks, however the Board acknowledged the applicant's testimony in utilizing the tree coverage served as a reasonable measure to lessen the impact of location of the structures.

The Board determined that a reasonable condition would be to limit the period in which the variances would be granted and that there should be conditions to maintain said structures' material.

The Board was comfortable with the request as proposed given the evidence supplied by the applicant, the support of the abutting properties, and conditions for both the expiration of the variances and for maintenance of the structures.

Findings:

By votes of 4-0-0:

1. The Board finds that the applicant demonstrated conditions relating to the shape of the subject lot especially affecting such lot but not generally affecting the zoning district in which the subject lot is located, namely that the limited size and the shape of the subject lot, coupled with the location of the existing buildings thereon, especially the existing garage render the proposed locations of the two carport garages essentially the only practicable locations therefor.
2. The Board finds that the applicant testified that the existing locations of the carport garages were chosen to take advantage of cover provided by existing trees thereby lessening the visual impact of the carport garages as seen from Norfolk Avenue.
3. The Board finds that it would be inappropriate to replace the existing soft sided carport garages without foundations with more permanent structures on permanent foundations at the same locations and further, notes that members of the public expressed concern about possible detrimental effects of the long-term existence of the existing carport garages.
4. The Board finds that in view of the preceding findings a literal enforcement of the provisions of the Medway Zoning Bylaw would involve substantial hardship to the applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

Relief Granted:

By votes of 4-0-0:

The Zoning Board of Appeals hereby grants to the applicant, Jeffrey F. Grenon, Jr., a Variance from the requirements of Section 6.1 of the Medway Zoning Bylaw for the erection of a 12 x 20 1-car carport garage and a 20 x 20 2-car carport garage at 6 Norfolk Avenue subject to the following terms and conditions:

- A. The two carports garages shall be erected substantially in accordance with the site plan submitted with the application;
- B. The rear setback requirement shall be varied to 5 feet for the 1-car carport garage and to 9 feet for the 2-car carport garage;
- C. The side setback requirement shall be varied to 8 feet from the northern side lot line for the 1-car carport garage and to 0 feet from the south side lot line for the 2-car carport garage;
- D. This variance shall only extend to soft sided carport garages having no permanent foundations;
- E. The soft covering of both carport garages shall at all times be maintained in good condition with no visible rips, fraying or damage; and
- F. This variance shall expire seven years from the date of this decision.

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.

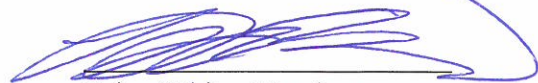


David J. Cole, Chairman

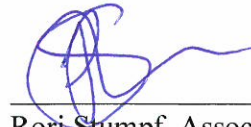
William Kennedy, Member



Eric Arbeene, Member



Brian White, Member



Rori Stumpf, Associate Member