

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

**MINUTES OF MEETING
April 20, 2016**

David Cole, Chairman, called the meeting to order at 7:33p.m. Attending Board members were Ms. Gould, Clerk (arrived 7:40pm); Mr. Kennedy; and Mr. White.

Citizen Comments

There were no members of the public that wished to make comments.

Approval of Minutes

Chairman Cole noted one minor edit to the draft meeting minutes for February 17, 2016.

A motion to accept the Minutes of the February 17, 2016 meeting as amended was made by Mr. White, seconded by Mr. Kennedy and passed 3-0-0.

Ms. Mercandetti informed the Board that while she has received verbally the award of 40B technical assistance from MA Housing Partnership, the written notification has not yet been received. The acceptance of the technical assistance requires authorization for the Chairman to sign. This item will be on the next meeting agenda.

Deliberations

The Board moved to deliberate on the variance application of Steve Linnell, 180 Main Street in Medway, MA. The Board was in receipt of a letter provided by Mr. Linnell with respect to his applications before the Board. Chairman Cole read the letter into the record. Chairman Cole noted that the Board cannot take action on the request to withdraw the special permit application this evening as the public hearing had been continued. Chairman Cole stated that the first matter referenced in the letter questioned whether the hearing should be reopened. Ms. Mercandetti informed the Board that it cannot reopen the hearing without re-advertising in the Milford Daily News and re-notification to the abutters.

Mr. White clarified that the items listed in Jack Mee's letter are those items that he can address under his jurisdiction as Building Commissioner. The other items are the request for variances and which the Building Commissioner is awaiting action by this Board. Chairman Cole then said we move forward without further delay and proceed with deliberations. He noted that the Board should look at the additional dwelling unit first.

The Board recognizes that the property is located in the Agricultural-Residential II zoning district. Within this zoning district, the minimum lot size required for a single family home, which is allowed by right, is 22,500 square feet and for a duplex, which is allowed by special

permit, the minimum lot size required is 30,000 square feet. The area of the subject lot is approximately 35,000 square feet. There are already four existing units and the request would add a fifth dwelling unit to the lot. The property is located in the Rabbit Hill Historic District. The Board was not inclined to grant the additional unit as they felt it would be inconsistent with the density in that area and create more strain. It was noted that given the considerable amount of testimony presented to the Board, at no point was the criteria for a variance as outlined in Massachusetts General Laws Chapter 40A ever addressed.

Chairman Cole moves to find that the applicant failed to provide any evidence of conditions relating to the shape, topography or soil conditions of the subject lot especially affecting the subject lot and not generally applicable to other lots in the zoning district. Ms. Gould seconds and it was passed 4-0-0.

Chairman Cole moves to find that the undisputed testimony during the hearing was that there are already four pre-existing nonconforming dwelling units on the subject lot and that the grant of the proposed variance would create a fifth unit on the subject lot whereas the existing zoning for the ARII zoning district, in which the subject lot lies, permits only single family dwellings as of right and two-family dwellings by special permit. Mr. Kennedy seconds and it was passed 4-0-0.

Chairman Cole moves to find that the area of the subject lot being approximately .79 acre is only slightly greater than the 30,000 square foot minimum normally prescribed for a two-family dwelling in the subject zoning district. Mr. White seconds and it was passed 4-0-0.

In view of the foregoing findings, Chairman Cole moves that the Zoning Board of Appeals deny the request for a Variance from Section 5.4 of the Medway Zoning Bylaw to the applicant, Steve Linnell of 180 Main Street, Medway, MA to allow for an additional dwelling unit on the property. Mr. White seconds and it was passed 4-0-0.
BW seconds 4-0-0

Variance denied.

The Board then discussed the request for a variance relative to the side setback for the deck. The Board didn't have any concern with the deck or where it was being located but it was a question of scale. It appears that the depth of the deck was approximately 15 feet although there were no dimensions noted on the plan. The Board felt the applicant could have sufficient space with a deck that had a depth of 10 feet and not need the relief from the minimum side setback required.

Chairman Cole moves to find that having the location of the existing building in the northwestern part of the subject lot and the presence of garage doors along the eastern face of this building, the proposed location for the deck is essentially the only practicable location for a deck attached to that building. Mr. Kennedy seconds and it was passed 4-0-0.

Chairman Cole moves to find that, given the spacing between the existing building and the northwestern side lot line of the subject lot, a deck of reasonable size could be constructed

without encroaching on the 15ft side setback requirement imposed by the Zoning Bylaw. Mr. Kennedy seconds and it was passed 4-0-0.

Chairman Cole moves to find that the applicant failed to present any substantial evidence as to why a deck conforming to the side setback requirement would not be adequate. Mr. Kennedy seconds and it was passed 4-0-0.

In view of the foregoing findings, Chairman Cole moves that the Zoning Board of Appeals deny the request for a Variance from Section 6.1 of the Medway Zoning Bylaw to the applicant, Steve Linnell of 180 Main Street, Medway, MA to allow for a 10ft side setback for a deck on the property. Mr. Kennedy seconds and it was passed 4-0-0.

Variance Denied.

Any other business

Ms. Mercandetti informed the Board that the Town has received notification of technical assistance from the Massachusetts Housing Partnership for consulting services to assist in the review of the proposed Timber Crest Estates development.

A motion to grant the Chairman authority to execute the letter of acceptance in the format presented to the Board, seconded by Mr. White and passed 4-0-0.

Ms. Mercandetti mentioned that the Board of Selectmen has received a letter and resume from Rori Stumpf who expressed interest in joining the Board as an associate member.

A motion to recommend to the Board of Selectmen that Rori Stumpf be appointed as an associate member of the Zoning Board of Appeals was made by Mr. Kennedy, seconded by Mr. White and passed 4-0-0.

Correspondence

None.

Adjournment

A motion to adjourn was made by Mr. Kennedy and seconded by Mr. White and passed unanimously. The Board adjourned at 8:40p.m.

Respectfully submitted,
Stephanie Mercandetti
Director, Community and Economic Development