

**Town of Medway
Zoning Board of Appeals Meeting
School Committee Presentation Room
Medway Middle School
45 Holliston St, Medway MA**

MINUTES OF MEETING

December 21, 2016

Present: Chairman David Cole; Clerk Carol Gould (arrived at 7:47); Committee Members: Eric Arbeene and Brian White.

Also present: Stephanie Mercandetti, Director, Community & Economic Development; Mackenzie Leahy, Administrative Assistant, Community & Economic Development

Chairman Cole called the meeting to order at 7:37 PM.

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

Approval of Minutes:

Chairman Cole requested multiple amendments be made to the December 7, 2016 minutes.

A motion was made to approve the minutes of December 7, 2016 as amended by Mr. White, seconded by Mr. Arbeene, and approved unanimously, 3-0-0.

[November 16, 2016 Minutes were not prepared for approval.]

Public Hearings:

7:40 P.M. – The Applicants, Shivani & Pranav Gill, 21 Tulip Way, seek variances from Section 6.1 of the Zoning Bylaw to allow a relief of 5 feet from the required 15 foot setbacks of the northern and southern lot lines for the installation of a pool.

Shivani Gill stated that the size and shape of the lot with the required 15 foot setbacks would put a pool right in front of the back porch. Ms. Gill stated that she has an unpredictable 2 ½ year old and another child on the way and would like to keep her family safe. Ms. Gill stated that by pushing the pool back it would be safer for everybody.

Chairman Cole noted that the pool installation may have conformed to the rear setbacks, if there was a rear lot to conform to. Mr. Arbeene stated that the lot was “pie shaped.”

Chairman Cole asked if the applicants had any correspondence with the neighbors. Ms. Gill stated that there had been, that neighbors were in support of the pool. Ms. Gill stated that one of the neighbors already has a pool and used the same pool company, and the neighbor and pool company strongly advised the applicants to get a variance.

Mr. Arbeene acknowledged that the Safety Officer had noted that there were no concerns.

Chairman Cole reviewed the Conservation Agent's notes but made no comment on them.

Chairman Cole asked if Ms. Gill knew how far the neighbor's pool was from the house; Ms. Gill did not know.

Chairman Cole asked when the lot and house were built; Ms. Gill believed it was built in 2003.

Ms. Gill stated that she had just leveled the yard and put a retaining wall around the yard with tubing and drainage.

Ms. Gould asked how close the pool would be from the house if it conformed to the setbacks; Ms. Gill did not have an exact distance.

Ms. Gould noted that there is a buffer. Chairman Cole if the other houses would be close to the pool; Ms. Gill noted that there is a neighbor close on one side, but a fence will sit on top of the retaining wall and then neighbor will not be able to see the pool.

There were no members of the public present for any comments or questions.

A motion to close the hearing for 21 Tulip Way was made by Mr. White, seconded by Ms. Gould, approve unanimously.

Chairman Cole motioned to find that the applicant demonstrated that the substantially "pie" shaped of the lot, coupled with the location of the existing dwelling on the lot, creates a hardship in conforming to the side setback requirements, in that conforming to such requirements would place the proposed pool inconveniently close to the existing dwelling, seconded by Mr. Arbeene, approved unanimously.

Chairman Cole motioned to find that the proposed location of the pool represents a reasonable compromise between the desire to keep the pool a reasonable distance from the existing dwelling and the diminishing side setbacks available, as the pool is more closely located to the northeastern tip of the "pie" shaped lot, seconded by Mr. Arbeene, approved unanimously.

Chairman Cole motioned to grant to the applicants, Shivani & Pranav Gill of 21 Tulip Way, a variance for the construction of pool at 21 Tulip Way, subject to the conditions that both northern and southern setbacks shall be reduced from the 15 feet required by the Bylaw to 10 feet; and the pool shall be located substantially as shown on the plan submitted to the Zoning Board of Appeals on December 20, 2016, seconded by Mr. Arbeene, approved unanimously.

Any other business that may properly come before the Board:

Ms. Leahy explained that the Planning and Economic Development Board (PEDB) has an ongoing list of amendments to be made for upcoming Spring and Fall Town Meetings. One of the items on that list to

address is the Wireless Communications Facilities Bylaw, which was supplied to the Board to review. The PEDB decided that it is not a priority for them to address, in part because they are not the deciding Board. Staff has received some inquiries about new facilities; Ms. Leahy proposed that either the Board or staff to the Board take on the responsibility of proposing amendments to the Wireless Communications Facilities Bylaw for Town Meeting.

Ms. Mercandetti noted that the language [of the Bylaw] is a little confusing, and after recodification, Staff and Boards are looking to tackle different sections of the Bylaw to adjust formatting and flow in terms of the general requirements and procedure for submission; certainly additional information would be added.

Chairman Cole suggested that the language for a new applicant may be added to *an existing monopole* as opposed to the facility at 113 Main Street.

Mr. White suggested that the Board allow Staff to take on the responsibility of proposing amendments to the Bylaw on behalf of the Board. Mr. Arbeene suggested at looking at other towns' bylaws.

Ms. Mercandetti asked if there were any other portions of the Zoning Bylaw that the Board would like to be added as a priority to the list for future amendments. Chairman Cole asked that the list of uses allowed in the overlay districts be looked at, he felt some may be out of line with what the Town may want right now; Chairman Cole stated that overlay districts often need multiple iterations.

Ms. Mercandetti stated that as was mentioned in the last hearing for Timber Crest, one of the items that the applicant agreed to was to use the Town's Consultant, Kleinfelder, for a hydraulic model analysis. The Developer agreed to pay for that, which was planned to run through the Department of Public Services, however, the Finance Director determined that they cannot create a separate account for DPS and because it is in the ZBA process, the services would need to be paid for through the Peer Review Services account. The Board has received the scope of work, and the Developer has agreed to move forward with Task II. There wouldn't be a need for Tetra Tech to review the services, as the work will be done with the Town Consultant. Chairman Cole stated that they should proceed with unanimous consent from the Board.

Correspondence:

None.

Upcoming Meetings:

Ms. Leahy noted that the agenda stated she had the incorrect year for one of the upcoming meetings—the agenda said "February 15, 2016" rather than the correct date of February 15, 2017.

No further discussion.

Adjournment

A motion to adjourn was made by Mr. White, seconded by Mr. Arbeene and passed unanimously. The Board adjourned at 8:22 p.m.

Respectfully submitted,

Mackenzie Leahy
Administrative Assistant
Community and Economic Development