

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF: The Julia F. Sia Family Trust
Petitioner

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JUL 20 2011

TOWN CLERK

*30 Day Appeal
Date August 9, 2011*

OPINION OF THE BOARD

**REQUEST FOR VARIANCE
5 Main St.**

Hearing: June 15, 2011

Decision: June 15, 2011

MEMBERS PRESENT: Joseph F. Musmanno, Chairman
David Cole
Anthony Biocchi
Peter Gluckler, Jr.
Carol Gould

THE WRITTEN OPINION WAS DELIVERED ON JULY 20, 2011

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 By-Laws of the Town of Medway, MA, 02053 and the Massachusetts General Law C40A, as amended, in which the petitioner, The Julia F. Sia Trust, seeks a Variance (V.E.3) to construct a two-family residential dwelling at 5 main St., 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 1 and 8, 2011. Notice also was sent to all "parties in interest" and posted in the Town Hall as required by Massachusetts General Laws Chapter 40A, Section 11.

The Public Hearing was held and the record closed on June 15, 2011. At the hearing, no one spoke in favor of, nor did anyone speak in opposition to the application..

Hearing Summary

Edward V. Cannon Jr., Esq., appearing on behalf of The Julia F. Sia Family Trust, came before the Board to request a Variance (V.E.3) to allow construction of a two-family residential dwelling at 5 Main St., located in the AR-I zoning district. The lot consists of a single parcel identified as Assessor's Map 6, Parcel 383 at 5 Main St. and consists of 68,275 square feet of unimproved land. Mr. Cannon stated that the applicant has tried, unsuccessfully for many years, to sell the property to a potential buy who could construct a single-family home on the property. The applicant has been unable to locate a buyer in part due to the location directly across the street from the IND-I zoning district and is seeking a Variance to allow two-family construction. The lot is unique in that it also nears the AR-II zoning district where the lot size is much smaller and that the subject property would be much better suited to ARII regulations which allows two-family residential dwellings. He suggested that due to its location on Main St. the saleability is affected and that "soil conditions, shape or topography" has been interpreted by case law to include location relative to other zoning districts. Mr. Gary Berset, a realtor for the applicant stated that due to its location, the value is very much reduced for single-family construction. The Sia family has owned the property since 1960 and it has been on the market for quite some time. Mr. Cannon stated that the location and inability to sell the parcel is a hardship and that desirable relief will not cause a substantial detriment to the public good or derogate from the by-law's purpose as the proposed use would not reduce the value of any property within the zoning district.

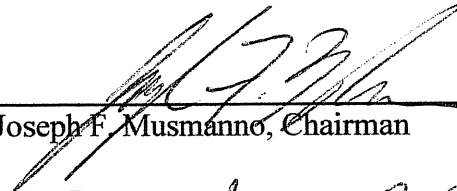
Findings:

The petitioner failed to demonstrate conditions relating to the shape, topography or soil conditions of the subject premises which do not generally affect other land in the zoning district. By vote of 4-1, with Messrs. Musmanno, Cole, Gluckler and Ms. Gould in favor, Mr. Biocchi opposed.


Appeal Denied:

The application for variance is denied based upon the foregoing finding. By vote of 4-1, with Messrs. Musmanno, Cole, Gluckler and Ms. Gould in favor Mr. Biocchi opposed.

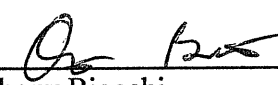
The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the Office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.



Joseph F. Musmanno, Chairman




David Cole



Anthony Biocchi

Peter Gluckler, Jr.



Carol Gould