

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Charter Realty & Development Corp.
Petitioner**

**PROPERTY OWNER: Charter Medway I, LLC and
Charter Medway II, LLC
65, 67A and 67 D Main Street
Medway, MA 02053**

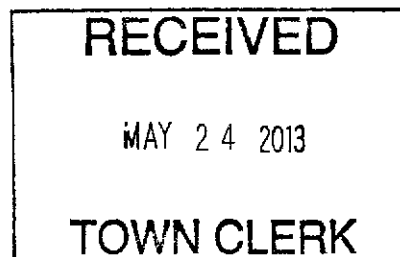
OPINION OF THE BOARD

**REQUEST FOR SPECIAL PERMIT
65, 67A and 67 D Main Street**

**Hearing: May 1, 2013
Decision: May 1, 2013**

**MEMBERS PRESENT: Joseph Musmanno, Chairman
David Cole, Clerk
Anthony Biocchi
Carol Gould**

THE WRITTEN OPINION WAS DELIVERED ON May 1, 2013



*June 10 20 day appeal date
MAY 27 2013*

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-Law of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioner, Charter Realty & Development Corp. requests a Special Permit under Section V.G.1.j. of the Medway Zoning By-Law to allow for a drive-thru facility for Starbuck's located in Medway Commons, 65, 67A and 67D Main Street, Medway, MA.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on April 3 and 10, 2013. Notice also was sent to all "parties in interest" (including the abutters of 65, 67A and 67D Main Street, Medway, MA, and posted in the Town Hall as required by Massachusetts General Laws, Chapter 40A, Section II. Due to only three members attending the April 17, 2013 hearing, a motion was made by Mr. Musmanno, second by Mr. Cole and passed unanimously to open the hearing on the application of Charter Realty & Development Corp. an immediately continue this hearing to May 1st.

The Public Hearing was held and the record closed on May 1, 2013. At the hearing, no members of the public spoke in favor of, or in opposition to the application.

Hearing Summary

The applicant, Charter Realty & Development Corp., on whose behalf Ms. Karen Johnson and Mr. Paul Furgal, Project Engineer, appeared. In view of the completeness of the Petition and supporting Written Statement, Ms. Johnson waived any oral opening statement, and the hearing proceeded immediately to questions from the Board. Ms. Johnson noted that the Planning Board and the Selectmen had reviewed the existing McDonalds drive-thru extensively. The building housing Starbucks (on whose building the proposed drive-thru is to be located) has adequate parking for the three

existing tenants. Although the applicant recognized that the common exit from McDonalds and Starbucks is something of a choke point, Ms. Johnson pointed out that neither McDonalds nor Starbucks has direct access off Route 109; movement within the shopping center is well away from the main highway. Furthermore, traffic at this point will be eased by the changes in the landscaping on the opposed side of the main driveway from Starbucks, which will avoid conflicts between traffic leaving the Star Market parking lot and traffic leaving McDonalds/Starbucks. Ms. Johnson further noted that the present plan was adopted after three or four earlier iterations of the plan that had been rejected, including one which would involve the construction of a complete building for Starbucks with a drive-thru on an existing landscaped area.

A further lengthy discussion regarding traffic issues then developed. Ms. Johnson confirmed that there had been no approach to the Planning Board to date, and again drew attention to the details of the reworking of the Star Market parking to reduce conflicts. Ms. Johnson further noted that the proposed drive-thru reduces the number of parking spaces on the side of Starbucks facing McDonalds and reduces the width of the exit facing McDonalds, making it one-way; this will substantially reduce the number of vehicles leaving Starbucks by this exit. A motion to close the hearing was made by Mr. Cole and passed by a vote of 3-1.

Findings:

By Vote of 4-0:

1. The proposed use would not be a substantial detriment to the public good.
2. The grant of the proposed Special Permit would not be inconsistent with any of the criteria set out in Section III.J of the Zoning By-Laws.

Decision

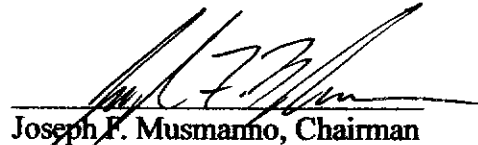
Decision

By Vote of 4-0:


The Board hereby *grants* to the applicant, Charter Realty & Development Corp. I and II, a Special Permit in accordance with section V.G1.j of the Zoning By-Law for a drive-thru facility primarily at lot AA at 65, 67 and 67D Main Street, Medway, MA.

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 the plan 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.

***IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW,
CHAPTER 40A, SECTION 11 NO VARIANCE, SPECIAL PERMIT OR
CONSTRUCTIVE GRANT OF A VARIANCE TAKES EFFECT UNTIL RECORDED
IN THE REGISTRY OF DEEDS.***


Joseph F. Musmanno, Chairman


David J. Cole


Anthony Biocchi


Carol Gould

Arlene Doherty