

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Henry J. Marcel, Jr.
Elizabeth F. Marcel
Petitioner**

**PROPERTY OWNER: Henry Marcel, Jr. and Elizabeth Marcel
11 Awl Street, Medway, MA**

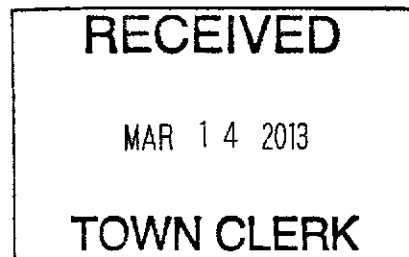
OPINION OF THE BOARD

**REQUEST FOR SPECIAL PERMIT
11 Awl Street, Medway, MA**

**Hearing: February 6, 2013
Decision: February 6, 2013**

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

THE WRITTEN OPINION WAS DELIVERED ON MARCH 6, 2013



*20 day appeal
date April 3, 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-Laws of the Town of Medway, MA, 02053 and the Massachusetts General Law Chapter 40A, as amended, in which the petitioner, Henry Marcel, requests a Special Permit V.D.4.a to construct a 44' X 30' one story addition to the existing 100' X 40' one story building, located at 11 Awl Street, Medway, MA 02053

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on January 23 and 30, 2013. 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 February 6, 2013. At the hearing, no members of the public spoke in favor of, or in opposition to the application.

Hearing Summary

The Applicants, Henry Marcel, Jr. and Elizabeth Marcel, represented by their attorney, Russell Hallisey, came before the board to request a Special Permit pursuant to Section V.D.4.a of the Medway Zoning By-Law. The building located at 11 Awl St. is within the ARII zoning district. The use, light manufacturing, is permitted under a 1985 variance and special permit granted and conditioned by this Board. The application and testimony given by Attorney Hallisey and Mr. Marcel revealed that there would be no change to the present use. The proposed addition will provide additional space for the present tenant, a radon testing business. There will be no additional employees. The existing business simply requires more space than is available in its present cramped building. The addition will be constructed at the end of the existing building and improve the building by transforming its factory resemblance to a residential appearance. The proposed addition will be some 20 feet from the lot corner, complying with setback requirements. There is no expansion of non-conformity requested, or change of conditions set forth in the 1985 permit. Improvements are to be made to the landscaping. The proposed future parking area shown on the plan is now open. With no change in use, the addition would pose no detriment to the public good.

Findings:

By Vote of 5-0:

1. There is no outward indication that conditions imposed by this Board are being violated.
2. The proposed modification is in accordance with, and does not increase the non-conforming of, the 1985 permit.
3. The proposed change is not substantially more detrimental to the neighborhood or public good than the present conditions.
4. The proposed change is consistent with Special Permit criteria set forth in the Section III.J of the Medway Zoning By-Law.

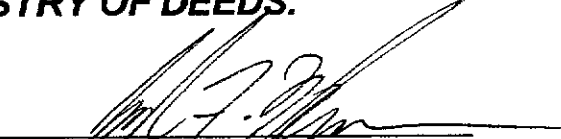
Relief Granted

By vote of 5-0:


Grant the petitioner, Henry Marcel, a Special Permit in accordance with section V.D.4.a of the Zoning By-Law for the expansion of the building at 11 Awl Street, Medway, MA 02053 in the general accordance with the plans provided.

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.

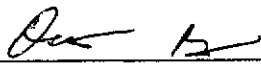
**IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW,
CHAPTER 40A, SECTION 11 NO VARIANCE, SPECIAL PERMIT
OR CONSTRUCTIVE GRANT OF A VARIANCE TAKES EFFECT
UNTIL RECORDED IN THE REGISTRY OF DEEDS.**



Joseph F. Musmanno, Chairman



David Cole



Anthony Biocchi



Carol Gould



Arlene Doherty

Norfolk, ss.

COMMONWEALTH OF MASSACHUSETTS

In the Matter of:

Henry J. & Frances Marcel
Petitioners

REQUEST FOR SPECIAL PERMIT AND VARIANCE

Hearing : September 18, 1985
 September 23, 1985
Decision: September 23, 1985

OPINION OF THE BOARD

Members Present: Marilee Stewart, Acting Chairman
 Allan Osborne, Alternate
 Francis Boczanowski, Alternate

TOWN OF MEDWAY
RECEIVED
NOV 26 1985

.....A.M.P.M.
TOWN CLERK

*20 day appeal
due Dec 16, 1985*

THE WRITTEN OPINION WAS DELIVERED BY MRS. STEWART ON NOVEMBER 15, 1985

OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA, acting under the Zoning By-Law of the Town of Medway and Mass G.L. c 40A, as amended in which the petitioner seeks a variance from the use regulation of Section V.F. of the Medway Zoning By-Law with respect to uses in an Agricultural Residential District II, such proposed uses being a light machine shop, office space and storage. The petitioner also seeks a special permit for alteration and additions to an existing non-conforming structure on the premises.

Following the giving of notice as required by law, a public hearing was held on Wednesday, September 18, 1985 in the Hearing Room of the Medway Town Hall.

The petitioners, Henry J. and Frances Marcel, as well as their attorney, Ralph C. Good, were present. Several neighbors and abutters were present to speak regarding the proposed variance and special permit. Attorney Good read a prepared statement, detailing the reasons for requesting the variance and special permit including a history of variances on the property. A detailed plot plan and blueprint of the proposed additions was presented to the Board. Several neighbors stated that while they had some concerns for the proposed increase in building size, they all felt Mr. Marcel had greatly improved the property since acquiring it in 1984. When Mr. Marcel acquired the property at that time he requested a variance for his electrical contracting business. The variance was granted for a period of two years thus necessitating Mr. Marcel's reapplication before this Board.

Plans were presented to the Board showing a two story building of 297 square feet to be built the exterior of which was similar to a single family dwelling. Mr. Marcel is proposing to rent this out as a light machine shop. Also an addition was planned to the existing building. The Board noted during its deliberations that it appeared as though an apartment was also planned for the new structure. At this point the Hearing was recessed until September 23, 1985, pending the Board consulting with Town Counsel.

The Hearing reopened on Monday, September 23, 1985 at 7:00 P.M. At this time the Board decided that the petition met the strict re-

quirements for a variance and determined that granting the petition:

1. Would be necessary to relieve a substantial hardship unique to these premises, in that existing and proposed non-residential building cannot be used without a variance;
2. Would not be substantially detrimental to the neighborhood as the present owner has improved the property;
3. Would not nullify or substantially derogate from the intent or purpose of the By-Law.

In deliberations to grant the special permit for the alterations and additions to present building the Board found that the same arguments for the variance would also apply to the special permit.

Accordingly, the Board unanimously decided to grant the petition both for the use variance and for the special permit, subject to the following conditions:

1. Property to be hooked up to town sewer;
2. Could only be used for commercial purposes not for residential;
3. A limit of four businesses;
4. A minimum of 15 off street parking spaces;
5. Continue hours of operation 7-5, Monday through Saturday;
6. Completion of landscaping;
7. No material to be stored outside the buildings.

The Building Inspector is hereby authorized to issue any necessary permits in accordance with the decision and any other applicable codes, rules, laws, or regulations.

The Board hereby makes a detailed record of all its proceedings relative to this petition; sets forth its reasons for its decision and findings; incorporates by reference the plans 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 of this decision be made forthwith to each party in interest.

Medway, Mass. Jan. 7 19 86

A true copy of the record.

Attest: Francis D. Donovan
Town Clerk

Marilee Stewart
Marilee Stewart, Acting Chairman

Alan G. Osborne
Alan G. Osborne, Alternate

Francis Boczanowski
Francis Boczanowski, Alternate



TOWN OF MEDWAY

MEDWAY, MASSACHUSETTS 02053

TEL. (617) 553-6059

FRANCIS D. DONOVAN
Town Clerk and Registrar

C E R T I F I C A T I O N

I, Town Clerk of the Town of Medway, hereby certify that notice of the decision of the Zoning Board of Appeals of the Town of Medway in the matter of

..... Henry J. & Frances Marcel

was received and filed in this office on Nov. 26, 1985.....

and no appeal was received during the twenty days next after such receipt and recording of said decision.

Dated at Medway, Mass January 7, 1986

ATTEST: *Francis D. Donovan*
Town Clerk

MEDWAY, MASSACHUSETTS
TOWN CLERK'S OFFICE
RECORDED
NOV 26 1985