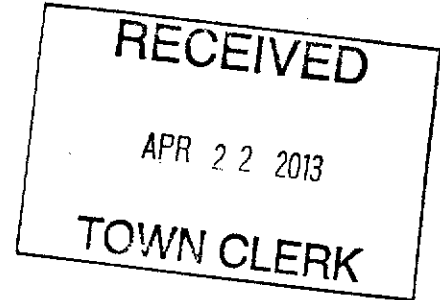


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF:** Robert Symonds  
Petitioner

**PROPERTY OWNER:** Robert Symonds  
68 Lovering Street  
Medway, MA 02053



*20 day Appeal  
May 13, 2013*

**OPINION OF THE BOARD**

**REQUEST FOR Variance**  
68 Lovering Street

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

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

**THE WRITTEN OPINION WAS DELIVERED ON APRIL 17, 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, Robert Symonds, requests a Variance to expend the lawful use of the premises from four (4) apartments to five (5) apartments located at 68 Lovering Street, 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 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 continuation was posted in the Town Hall as required.

The Public Hearing was opened on February 6, 2013, and at the request of the petitioner's representative was continued to, and the record closed on, March 6, 2013. At the hearing, no members of the public spoke in favor of, or in opposition to the application.

### **Hearing Summary**

The Applicant, Robert Symonds, and Attorney John V. Fernandes (representing Mr. Symonds), came before the board to request a Variance to expend the lawful use of the premises from four (4) apartments to five (5) apartments. The subject premises are located within the ARII zoning district. The present lot size is approximately 3.8 acres, but it was formerly larger. Attorney Fernandes explained that the application was essentially one to resume use of the subject property as a five family dwelling, as it had been used for many years. The dwelling was built in 1898 as the Town's Poor House. After the Town ceased to use it as the Poor House, it was ultimately purchased and operated as a rooming house, and then apparently, a four unit building. The building was struck by lightning in the early 1970's and suffered the loss of the third floor. The roof was repaired and the property somewhat secured. The two first floor units were rented until approximately 1983 until the owner sought permission to convert the building to four units again. A variance was issued in May 1983 permitting the increase of use to four dwelling units. The petitioner purchased the property under the impression that he could add four more units to the two already there for a total of six units. Mr. Symonds took out building permits and modified the building for five dwelling units with five kitchens, believing in good faith that the five units were allowed. The building is equipped with five gas and electric meters and five mailboxes, all installed. That information is validated by town records at least as of 1991. The petitioner has financed the property, ensured parking and reconfigured the building based upon its use as five units. Mr. Fernandes further stated that to reconfigure and remodel the building will cost substantial investment that will not result in a benefit to anyone, the town or neighbors, as the number of people utilizing the Premises will not go down. The number of rooms is static. People will occupy those rooms. For the better part of the last twenty-five years, the Building and Property have been arranged for and occupied by five units with five separate tenants without detriment to the neighborhood. The variance does not seek an expansion or variance from that actual use, but only seeks validation of that use by an expanded variance. The neighborhood will see no change. There are no alterations proposed.

### **Findings:**

By Vote of 5-0:

1. The reasons for the grant of the 1983 variance relating to the subject lot, as set forth in the Decision of March 29, 1983 are still valid.

2. The subject premises have been openly and notoriously used as a five family residence since approximately 1985.
3. The continued use of the subject premises as a five family residence would not be substantially detrimental to public good.
4. To amend the prior decision of March 29 1983 relating to subject premises by striking antepenultimate paragraph and substituting "there shall be no more than five apartments on the premises".

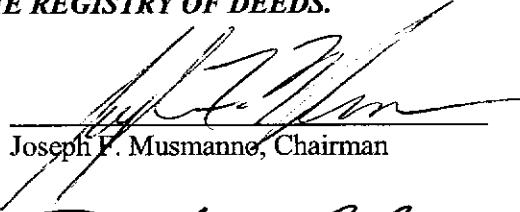
**Relief Granted**

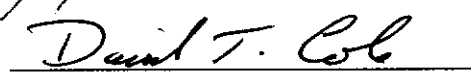
By vote of 5-0:

The prior decision of March 29, 1983 relating to the subject premises is amended by striking "2 apartments per floor, be constructed" and adding "five apartments on the premises".


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.***

  
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Joseph F. Musmanne, Chairman

  
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David Cole

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Anthony Biocchi

  
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Carol Gould

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Arlene Doherty