

COMMONWEALTH OF MASSACHUSETTS



NORFOLK, SS

*20 Day Appeal
Aug 27, 2014*

**IN THE MATTER OF: Elite Home Builders, LLC
Petitioner**

**PROPERTY OWNER: Betty Ann McCall Vernaglia
12 Partridge Street
Medway, MA 02053**

OPINION OF THE BOARD

**REQUEST FOR VARIANCE
Off Winthrop and Lovering Streets**

**Hearing: May 28, 2014
Decision: August 6, 2014**

**MEMBERS PRESENT: David J.Cole, Chairman
Anthony Biocchi
Craig Olsen
Arlene Doherty
Carol Gould**

THE WRITTEN OPINION WAS DELIVERED ON August 6, 2014

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, Elite Home Builders, LLC, seeks a use Variance for an Adult Retirement Community Planned Unit Development, located off Winthrop and Lovering Streets, 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 May 7th and 14th, 2014. 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 meeting was postponed to May 28, due to the Board not having a quorum. The Public Hearing was held and the record closed on May 28, 2014. At the hearing, 6 members of the public spoke in favor of, and 2 in opposition to the application.

Hearing Summary

The Applicant, Elite Home Builders, LLC, represented by Steven Venincasa, Manager and Rob Truax, Engineer came before the Board to request a use Variance as authorized by Section III.D.3 of the Town of Medway Zoning ByLaw to grant relief from the provisions of Section V.U.4(c)(1) of the ByLaw which require the dwelling units within an Adult Retirement Community Planned Unit Development (ARCPUD) to be occupied by persons over the age of 55, with certain exceptions; the requested relief would permit up to 20 percent of the dwelling units in the proposed ARCPUD to be occupied entirely by persons under the age of 55.

The petitioner has submitted an application to the Town of Medway Planning and Economic Development for an Adult Retirement Community Planned Unit Development for Special Permit for an ARCPUD to be known as “Millstone Village” on approximately 51 acres, adjacent to Winthrop and Lovering Streets, and containing:

- (a) Forty-five (45) townhouse type residences constructed in groups of two or three units in eighteen buildings, eight (8) of which units will be low or moderate income units which will comply with the requirements for inclusion in Medway’s subsidized housing inventory;
- (b) Thirty-five (35) detached single family dwellings;
- (c) Approximately 20.4 acres of open space.

The applicant stated that the purpose of the requested variance is to improve the viability of the proposed ARCPUD. Trends in the market for senior housing increasingly look for inter-generational housing for active seniors that does not isolate seniors from younger populations and provides an orientation towards fitness and community as opposed to health-care. Such a community will be consistent with and not derogate from the purpose of the Adult Retirement Community Overlay District to provide for and promote development of alternative housing opportunities for the growing senior citizens population, permit a greater variety of housing types than would otherwise be allowed in order to accommodate the housing needs of the senior citizen population and encourage the development of affordable

housing for seniors with low and moderate incomes, see ByLaw Section V.U.1, while also providing more affordable housing opportunities for younger homeowners with similar requirements.

Petitioner has consulted with the Planning and Economic Development Board concerning this request for relief, and a letter from the PEDB was read into the record stating that the Board did not object to the request for variance.

Various members of the Board raised the question of whether the issue of allowing ARCPUD dwellings to be occupied by under-55s was a matter more appropriate for regulation by the Zoning ByLaw itself rather than by means of a variance. The applicant pointed out that modification of the ByLaw was a lengthy process, which would result in considerably uncertainty regarding the rules to be applied to the proposed ARCPUD. However the applicant was unable to set out any circumstances relating to soil conditions, shape or topography peculiar to the subject lot and affecting the issue of occupation of some of the dwelling units by under-55s.

Findings:

By vote of 4-1

1. The petitioner failed to demonstrate circumstances relating to soil conditions, shape or topography of the subject lot which especially affect this lot but do not generally affect the Zoning District in which the lot is located, sufficient to justify grant of a Variance, under Section III.D.3 of the Medway Zoning ByLaw.

Relief Denied

By vote of 4-1

Due to the above finding, relief is denied.

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.**

David J. Cole

David J. Cole, Chairman

Anthony Biocchi

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Craig Olsen

Arlene Doherty

Carol Gould

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