

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF:     **Continuing Care Management, LLC**  
                                  **Petitioner**

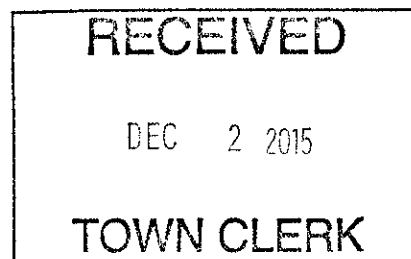
OPINION OF THE BOARD

REQUEST FOR VARIANCES  
261 and 263 Village Street, Medway, MA

Hearing: November 4, 2015  
Decision: November 18, 2015

MEMBERS PRESENT:     **David J. Cole, Chairman**  
                                  **Eric Arbeene, Member**  
                                  **Craig Olsen, Member**  
                                  **Brian White, Associate Member**

THE WRITTEN OPINION WAS DELIVERED ON December 2, 2015



*30 day appeal date  
Dec 32 2015*

## 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 Bylaw of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioner, Continuing Care Management, LLC, requests Variances from the requirements of Section 7.2.5. Sign Standards of the Zoning Bylaw for the number and dimensions of the proposed two entrance signs and medical office building sign in connection with the development of a senior community to be known as "The Willows and Whitney Place" on the property located at 261 and 263 Village Street, Medway.

### Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on October 14 and 21. Notice also was sent to all "parties of interest" and posted in the Town Hall as required by Massachusetts General Laws, Chapter 40A Section 11.

The Public Hearing opened and closed on November 4, 2015. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Eric Arbeene, Member; William Kennedy, Member and Brian White, Associate Member. Mr. Olsen was not present at the November 4, 2014 hearing and filed the appropriate documents with the Town Clerk in accordance with MGL c. 39 Section 23D, known as the Mullin Rule. The Board voted on the requests for variances on November 18, 2015. The Medway Zoning Board of Appeals members voting were David Cole, Chairman; Eric Arbeene, Member; Craig Olsen, Member and Brian White, Associate Member.

At the hearing, an abutter at 262 Village Street questioned the location of the medical office building sign as drivers will pass the main entrance to the development, which will also be used for access to the medical office building, by the time they see the sign. Another resident commented that the requested height for the entrance signs is out of scale with the village feel and scenic aspect of Village Street, and also felt that the medical office building sign location creates some confusions for drivers.

Correspondence from the Design Review Committee was received and entered into the record. Ms. Walsh, a member of the Design Review Committee, spoke on behalf of the Committee and summarized their comments.

### Hearing Summary

Attorney Paul Kenney and Jeff Robinson of Continuing Care Management, LLC appeared before the Board to discuss the requests for Variances for the property located at 261 and 263 Village Street.

Attorney Kenney gave a brief overview of the proposed development of a senior community to be known as “The Willows and Whitney Place” on the property, presently under review by the Planning and Economic Development Board. He then explained each variance request, the reasons for the requests and addressed the criteria for the variances.

Two of the requests pertain to development signage at the primary entrance of the proposed adult retirement community. The applicant requests two development signs at the entrance, with each sign to be 9ft tall, where only one sign is allowed with a maximum height of 6ft under the Town’s Zoning Bylaw. These signs meet the surface area requirements, would be angled and of a stone façade, and would be very attractive for this scenic road. As part of the proposed development, there will also be a medical office building which sits right off of Village Street. The third request is for the medical office building to have a freestanding double-sided sign with a surface area totaling 46.95sq.ft. which exceeds the maximum sign surface area of 40sq.ft. allowed under the Town’s Zoning Bylaw. Attorney Kenney explained that the increase is due to the top of the sign, while its a triangular shape, has to be measured as a rectangle when calculating the sign surface area as referenced in the Zoning Bylaw and after consultation with the Building Commissioner. There will be no signage placed at the secondary entrance as it will mainly be used by those who live on that end of the development.

Attorney Kenney explained that 261 Village Street is an irregular L-shaped lot and 263 Village Street is an irregular hammerhead-shaped lot. These circumstances do not affect other land in the district. The narrow opening of the two lots creates a hardship to the applicant. There is a significant bend in the street on the approach coming from the east and sight lines are limited. Having the entrance signs as proposed will be easily identifiable, rather than a single sign, and would be very beneficial to those residing in the development and anyone else that would be visiting the community. Sight lines are also an issue for medical office building. Safety is a major concern of the development and one of the key reasons for the requests made.

The Board questioned the applicant on the setbacks and locations of the signs, additional clarification on the requested variances from the sign standards, and how these requests meet the criteria for a variance under MGL c. 40A.

The Board inquired if there was a separate entrance off of Village Street for the medical office building and asked about the distances between signs. Attorney Kenney responded that access to the medical building is from within the development. The building does not have its own entrance from Village Street. The Board asked if there would be an issue with traffic coming in and out of the site with respect to the location of the signs. Attorney Kenney replied that the signs are sufficiently set back from Village Street and there is no issue. Also, the size of the wall drops to 3ft each side for the entrance signs and it is only the portion where the sign is which will have the increased height.

The Board agreed with the rationale for the request for two development signs, however, there was not sufficient evidence presented to them to satisfy the other two requests.

**Findings:**

1. The Board finds that the applicant established a need to provide an entrance sign or signs clearly visible for traffic traveling in both directions on Village Street. (Voted 4-0-0)
2. The Board finds that given the scenic road designation of Village Street, the proposed stone wall sign is thoroughly in keeping with the surrounding area. (Voted 4-0-0)
3. The Board finds that the proposed stone wall type of construction does not lend itself to be used for a double-sided sign, and accordingly, in order to provide the necessary visibility to traffic traveling in both directions, the use of two single-sided signs on either side of the wide boulevard type of main entrance to the development appears optimal as opposed to a two-sided sign placed in the center of the boulevard. (Voted 4-0-0)
4. The Board finds that the applicant did not demonstrate sufficient evidence to justify the request for a Variance under MGL c. 40A Section 10 for the entrance signs to be constructed in excess of the 6ft requirement as stated in the Zoning Bylaw. (Voted 4-0-0)
5. The Board finds that the applicant did not supply sufficient evidence to meet the requirements for a Variance under MGL c. 40A Section 10 with respect to the requested relief from the Zoning Bylaw for an increase in the maximum sign surface area for Medical Office Building sign. (Voted 4-0-0)
6. The Board finds that there was a hardship created by a fellow Town body following discussions with respect to sign design proposals. (Voted 3-0-1; Chairman Cole dissenting)

**Relief Granted:**

By a vote of 4-0-0:

The Zoning Board of Appeals hereby grants to the applicant, Continuing Care Management, LLC, a Variance from the requirements of the Medway Zoning Bylaw Section 7.2.5. Sign Standards regarding the requested relief from the maximum number of signs to allow for the construction of two signs at the main entrance of the subject development where the Zoning Bylaw only permits one such sign on property located at 261 and 263 Village Street in accordance with the plans submitted.

**Relief Denied:**

By a vote of 4-0-0:

The Zoning Board of Appeals hereby denies to the applicant, Continuing Care Management, LLC, a Variance from the requirements of the Medway Zoning Bylaw Section

7.2.5. Sign Standards regarding the requested relief from the maximum sign height for the signs located at the main entrance to the subject development on property located at 261 and 263 Village Street in accordance with the plans submitted.

The Zoning Board of Appeals hereby denies to the applicant, Continuing Care Management, LLC, a Variance from the requirements of the Medway Zoning Bylaw Section 7.2.5. Sign Standards regarding the requested relief from the maximum sign surface area for the Medical Office Building sign on property located at 261 and 263 Village Street in accordance with the plans submitted.

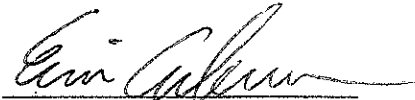
The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public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

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to MGL c. 40A, Section 17, within twenty (20) days after the date of filing this Decision with the Town Clerk.

In accordance with MGL c. 40A, Section 17, no variance shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, is recorded in the Norfolk County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.




David J. Cole, Chairman



Eric Arbeene, Member



Craig Olsen, Member



Brian White, Associate Member