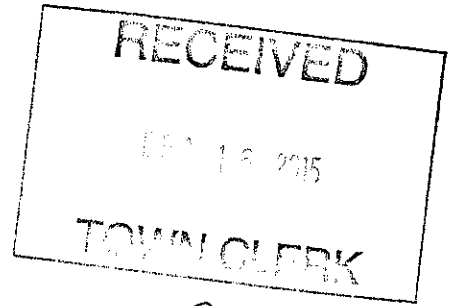


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Ron Mullen
 Petitioner**

**OWNER: Andrew Parchesky
 8 John Street
 Medway, MA 02053**



*20 Day
Jan. 5, 2016*

OPINION OF THE BOARD

**REQUEST FOR A VARIANCE
8 John Street, Medway, MA**

**Hearing: December 2, 2015
Decision: December 2, 2015**

**MEMBERS PRESENT: David J. Cole, Chairman
 Carol Gould, Clerk
 Craig Olsen, Member
 Brian White, Associate Member**

THE WRITTEN OPINION WAS DELIVERED ON December 16, 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, Ron Mullen requests a Variance from the requirements of Section 6.1 Table 2 of the Zoning Bylaw to allow for a 5ft rear setback where a minimum of 15ft is required for the replacement of an existing garage on property located at 8 John 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 November 18 and 25. 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 December 2, 2015. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Craig Olsen, Member; and Brian White, Associate Member. Mr. White participated remotely on December 2, 2015 pursuant to the Massachusetts Open Meeting Law regulations 940 CMR 29.00. The Board voted on the request for a variance on December 2, 2015.

At the hearing, an adjacent neighbor from River Street questioned if there would be windows on the west side elevation of the garage which faces his property. The present garage didn't have any windows and he would prefer the same with the proposed garage.

Hearing Summary

The applicant, Ron Mullen, representing the property owner, and Andrew Parchesky, the property owner, appeared before the Board to discuss the request for a Variance for the property located at 8 Temple Street.

Mr. Mullen filed the application on behalf of the property owner and explained the request for a variance from the Board. In February, the garage collapsed given the winter weather experienced at that time. The intent is to rebuild the garage in the same location using the existing foundation. The Board questioned the distance from the garage to the rear property line. Mr. Mullen responded that the garage is approximately five feet off the rear property line. The Board asked how the request meets the criteria for a variance. Mr. Mullen discussed the topography of the property. Mr. Parchesky noted that it is the same as a few of the houses across the street. The Board questioned whether the new garage would be the same height. Mr. Mullen noted that it will be slightly higher with a height of 6ft. Mr. Parchesky added that he needs the storage space since his basement is damp and he needs a dry place to store.

The Board also inquired about the distance to the next residence from this garage. The adjacent neighbor responded that his house is 8ft away from the property line. He added that since the garage will be 6ft tall and as there were no windows on the side of the garage that faced his property, he asked that there would be no windows in the new garage. Otherwise he is fine with what is being proposed. His property is adjacent to the west side elevation.

The Board agreed that they were comfortable with the request and there were no issues in the granting of the request.

Findings:

By a roll call vote of 4-0-0 (David Cole – aye; Carol Gould – aye; Craig Olsen – aye; and Brian White – aye):

1. The Board finds that the applicant established that the lot is subject to circumstances relating to shape and topography of that lot especially affecting the subject lot but not generally affecting the zoning district in which the lot is located; such that a literal enforcement would involve a substantial hardship to the applicant; and specifically in view of the limited size of the subject lot, its topography and the position of the existing house and stone wall, the general area of the previous garage represents the only practicable location for the proposed new garage, and that any requirement to locate the new garage a short distance from the existing garage would involve a substantial hardship by virtue of the inability to use the existing foundation.
2. The Board finds that the location of the existing foundation is preexisting nonconforming under the current Medway Zoning Bylaw and gives reason for granting a variance.
3. The Board finds that the desirable relief may be granted to the applicant without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the Bylaw, but in doing so it may be desirable to impose conditions to safeguard the privacy of the neighbor on the west side of the lot.

Relief Granted:

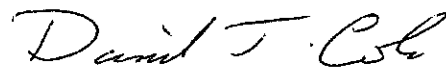
By a roll call vote of 4-0-0 (David Cole – aye; Carol Gould – aye; Craig Olsen – aye; and Brian White – aye):

The Zoning Board of Appeals hereby grants a Variance from Section 6.1 of the Medway Zoning Bylaw to the property owner, Andrew Parchesky, to allow for the construction of a garage on the preexisting foundation adjacent to the west lot line of the subject lot, on property located at 8 John Street, Medway subject to the following term and condition that the new construction shall not have any windows provided in the west side of the garage but the existing windows in the foundation may be allowed to remain.

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.

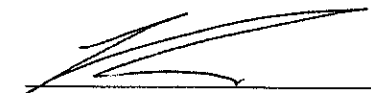
In accordance with MGL c. 40A, Section 17, no variance shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has 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.



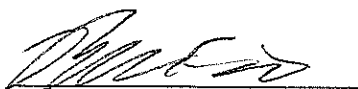
David J. Cole, Chairman



Carol Gould, Clerk



Craig Olsen, Member



Brian White, Associate Member