

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING MARCH 21, 2012

Messrs. Musmanno, Cole and Biocchi and Ms. Doherty were present when the Chairman called the meeting to order at 7.50 p.m.

By unanimous consent, the Board agreed to hear the application of Mr. Currivan, who was represented by his attorney, Mr. Stephen Kenney. Mr. Kenney noted that the subject lot was in Zoning District C-IV, although it may straddle into AR-II. The applicant is seeking permission for two townhouse units. The applicant is seeking to rebuild a building already condemned by the Zoning Enforcement Officer, basically on the same footprint with parking for four vehicles as required by the Zoning ByLaw. It is proposed that the building be moved back from the corner of High and Village Streets. A two family use would be more conforming to the neighborhood, which is largely residential, than the previous mixed residential/commercial use. The shape of the subject lot is odd, abutting both High and Village Streets, and because of the shape of the lot and the buildings on adjacent lots, moving the building to the center of the lot would tend to crowd the abutting lots. The hardship of rebuilding on the existing footprint would leave the building too close to the street. Mr. Currivan has owned the lot since 1964. The suggested relief would not derogate from the intent of the Zoning ByLaw as it would improve the building and be better for the neighborhood, Mr. Kenney concluded.

The Board asked for further explanation of the justification for a two family dwelling, Mr. Kenney argued that a two family dwelling would be better for the neighborhood than a mixed use. Board members pointed out that the C-IV Zoning ByLaw section in question, which states that only single family dwellings shall be erected in recent and expresses the intent of the town. Mr. Kenney also urged that as a result of moving the building back 11 feet from the corner, there is a need to avoid crowding of the neighboring building on the North side of the subject lot.

Mr. Cole expressed a difficulty with the idea of a two family residence in view of the specific provision in the Zoning ByLaw regarding single family residences. Mr. Kenney argued that there are already two units on the lot, one commercial and one

residential. Mr. Biocchi that asked what would be a viable commercial use of the lot, and Mr. Kenney indicated that he did not know that commercial use could usefully be put into the lot.

During public questions, Mr. Phillip Fougere, of 12 High Street, asked in the applicant proposed to conform the architecture of the proposed building to that prevalent in the neighborhood. The applicant stated that he proposed a two story colonial type structure.

During public comments. Mr. David Bennett, of 330 Village Street spoke in favor of the application, but asked if there would be any yard area. Mr. Kenney indicated that the applicant would remove the large tree presently on the lot and the non-parking area would be grassed. Mr. Fougere also spoke in favor of the application; there was no opposition expressed.

A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to close the hearing.

After a brief recess, the Board then proceeded, by unanimous consent, to deliberate on the application of Mr. Currivan. During preliminary discussion, Mr. Musmanno expressed the opinion that the application was definitely worthy of relief but he had difficulty with the use variance, and with the building location.

A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the shape and size of the subject lot do not support construction of typical structures within the established setbacks. A second motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the aforementioned circumstances cause substantial hardship in that construction of a dwelling or other typical structure would be effectively impossible within strict appn of the Zoning ByLaw. A third motion was made by Mr. Musmanno, seconded by Ms. Doherty and passed unanimously to find that grant of suitable setback relief would not derogate from the intent of the Zoning ByLaw.

A motion to find that the petitioner failed to demonstrate any hardship justifying construction of two residential units on the subject lot, moved by Mr. Cole and seconded by Mr. Musmanno, failed to pass on a vote of 2-2, with Mr. Cole and Mr. Musmanno in favor and Mr. Biocchi and Ms. Doherty opposed. A motion was made by

Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to grant relief by varying the requirements of Section V.J.3(a) of the Zoning ByLaw to 9958 sq ft more or less and the requirements of Section V.J.3(d) to 20 feet and the requirements of Section V.J.3(e) to 10 feet. A motion made by Ms. Doherty and seconded by Mr. Biocchi to grant relief by varying the requirements of Section V.J.2 to allow a two family dwelling to be constructed failed to pass on a vote of 2-2, with Ms. Doherty and Mr. Biocchi in favor and Messrs. Musmanno and Cole opposed. A motion made by Ms. Doherty and seconded by Mr. Biocchi to grant a special permit under Section V.D.4.a was defeated on a vote of 1-3, with only Ms. Doherty voting in favor. A motion made by Ms. Doherty and seconded by Mr. Biocchi to grant a special permit for two family use under Section V.D.1 failed to pass on a vote of 2-2 with Ms. Doherty and Mr. Biocchi in favor and Messrs. Musmanno and Cole opposed.

A motion to set the matter on the table was made by Mr. Cole, seconded Mr. Musmanno and passed on a vote of 3-0 with Ms. Doherty abstaining.

A motion made by Ms. Doherty and seconded by Mr. Musmanno to adopt the minutes of the February 15, 2012 Board meeting as presented by the clerk was passed on a vote of 3-0 (Mr. Musmanno abstaining since he was not present at the relevant meeting). A further motion to adopt the minutes of the February 26, 2012 Board meeting as presented by the clerk was made by Ms. Doherty, seconded by Mr. Musmanno and passed unanimously.

Three new petitions were reviewed by the Board, and it was agreed that all three should be advertized and set for hearing on April 18.

On a motion made Mr. Cole, seconded by Ms. Doherty and passed unanimously, the Board adjourned at about 9.25 pm.