

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING APRIL 6, 2011

Messers. Musmanno, Cole and Gluckler and Ms. Gould were present when the Chair called the meeting to order at 7.46 p.m.

A motion was made by Mr. Gluckler, seconded by Ms. Gould and passed unanimously to approve the minutes of the March 30 meeting as presented by the Clerk. By unanimous consent, the application of Mr. Merchant was approved for advertising and hearing.

By unanimous consent, the Board then proceeded to hear the application of Thomas McGowan, on whose behalf Diane McGowan appeared. Ms. McGowan stated that one dog is 15 years old and in poor health. The applicant would have no objection to a restriction to no business activities in connection with the dogs. The dogs are kept in the house except for brief periods. One dog is Shi Tzu, approximately 15 lbs, a second is Bijon, about 11 lbs, a third is a Pekinese mix of about 9 lbs and the last is a small Pug. The dogs are not left unattended outdoors, but are provided with a fenced run. There have been no complaints to the applicant or to the Animal Control Officer. The dogs have never run loose, and a five year limitation on the kennel permit would be acceptable in view of the age of the oldest dog.

There were no public questions or comments.

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

The Board then moved to immediate deliberation on this application. A motion to find that the application was consistent with the criteria for a special permit set out in Section III.J of the Zoning ByLaw was made by Mr. Cole, seconded by Mr. Gluckler and passed unanimously.

A motion to grant the requested special permit was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, subject to the following conditions (the names of the proposers and seconders of the various conditions are indicated in parentheses after the conditions; all conditions were adopted unanimously):

- (a) All rights and privileges are limited to keeping domestic pets owned by residents (Musmanno/Cole)
- (b) There shall be no more than four dogs on the premises (Musmanno/Cole)
- (c) Dogs shall not be left outdoors unattended (Musmanno/Gluckler)
- (d) The permit expire five years from its date of issue (Musmanno/Cole)
- (e) There shall be no commercial activities in connection with the kennel permit (Cole/Musmanno).

At this point, Mr. Biocchi joined the meeting.

By unanimous consent, the Board agreed to hear the application of Mr. Thomas Carson, who appeared on his own behalf.

Mr. Carson stated that he was seeking a Class II used car dealers license. He buys only one car at a time and few overall. He has an arrangement with other dealers for long term storage and with an auto repair facility in Millis for repairs; he needs the license to attend auto auctions which are not open to the public.

There were no questions from the public. Mr. Larry Munch of 1 Quail Drive spoke in favor of the application, stating that he was a customer of the applicant, and confirmed the description of the operation given by the applicant. Ms. Carol Burnstein and Mr. Harold Konig, neighbors of the applicant, spoke in favor citing the meticulous appearance of the property. Mr. Michael Powers of 17 Florence Circle also spoke in favor stating that the applicant was a good neighbor and his property impeccable.

The Board then held a general consultation regarding this application, the chief problem troubling the members being what activity of the applicant required the issue of a special permit having regard to the permitted activities of home-based businesses as set out in Section V.AA of the Zoning ByLaw. Finally, on a motion made by Mr. Cole, seconded by Mr. Biocchi and passed 4-1 (Ms. Gould voting against), it was decided to continue the hearing to April 27 at 7:45 pm, and seek clarification from the Building Inspector of the reasons for him requiring a special permit for the applicant's activities.

The Board then decided by unanimous consent to take up the appeal of Mr. Ahmed. Town Counsel appeared before the Board and advised the Board that MGL, Chapter 40, Section 81U sets out four possible methods of providing security in developments subject to the subdivision control regulations; other forms of security are not permitted. Even with a comprehensive permit under Chapter 40B, counsel advised, a road plan must be recorded, which invokes the security provisions of Section 81u. The filing of a subdivision plan is a necessary condition for issue of a building permit. Mr. Musmanno pointed out that a plan had already been recorded. Counsel also referred to the provisions of Section 81X, which sets out the criteria a Building Inspector must use in issuing a building permit.

The Board then proceeded to deliberate on the appeal of Mr. Ahmed. After a general consensus had been reached as to the approach to the decision, on a motion made by Mr. Musmanno and seconded by Ms. Gould the matter was placed on the table until Mr. Cole provided a draft decision.

By unanimous consent, the Merchant application was set for hearing on April 27.

The Board then proceeded to deliberate on the appeal of Delphic Associates. After a general consensus had been reached as to the approach to the decision, on a motion made by Mr. Musmanno and seconded by Mr. Cole the matter was placed on the table until Mr. Gluckler provided a draft decision.

The Secretary was dismissed by unanimous consent at 10:55 pm.

Finally, a motion to adjourn was made by Mr. Gluckler, seconded by Ms. Gould and passed unanimously. Accordingly, the Board adjourned at 11:10 pm.