

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING JULY 20, 2011

Messrs. Musmanno, Cole, and Biocchi and Ms. Gould were present when the Chair called the meeting to order at 7:53 p.m.

By unanimous consent, the Board proceeded to hear the application of Village Realty Trust, on whose behalf Mr. Jay Abend appeared. Mr. Abend stated that the internet sales business which had previously occupied the premises moved out about a year ago, and since efforts to sell the property had failed, it was now leased to two businesses. Mr. Abend argued that the general nature of the business for which the violation was alleged was similar to that (a painting business) which previously occupied the site, both being industrial, so that no special permit should be required. Gardening tools are presently stored in an outside tent.

At this point, the Board invited the Building Inspector to state his objections. The Building Inspector argued that this was a new use which required a special permit. There was some rather inconclusive discussion between members of the Board and the Building Inspector regarding what criteria should be used to determine whether any new use is sufficiently similar to a previous use that no special permit should be required, the Building Inspector in effect stating that this should be left to his judgment.

When questions were invited from members of the public, Mr. David Stockton of 73 Village Street and Ms. Helen Kelley of 72 Village Street raised concerns about the number of vehicles parked at the site (especially outside normal working hours) and environmental problems. The applicant pointed out that the tenant does not operate heavy equipment. Mr. Chris Rogers of 7 Populatic Street noted that the building is in the 100 year flood zone of the Charles River.

There were no statement by the public in favor of the application. Mr. Rogers spoke against the application and submitted photographs showing flood waters inundating a trailer and a truck on the subject lot. Ms. Helen Kelley submitted a letter

expressing various concerns. Mr. David Stockton, Mr. Robert Kelly and Mr. Jim Farnsworth also spoke against the application.

In response to further questioning by the Board, Mr. Abend stated that if a special permit were granted, he would not object to the Board limiting the hours of operation of the business, and would not object to limitations on signs. There would also be no objection to limiting the number of employees to (say) 15. The applicant would not object to a limitation of one unregistered vehicle on the lot, and there should be no vehicle repairing. The building should not be used as a showroom but the applicant felt that banning all sales on the premises would be going too far.

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

By unanimous consent, the Board then proceeded to hear the application of New Cingular Wireless LLC relating to 113R Main Street. Mr. Gerry Squires appeared on behalf of the applicant and stated that there is an existing facility at the 95 foot level which presently has six antennae. It is proposed to add three additional antennae and a surge resistor at about the 91 foot level. The output power will not be increased and there will be no increase in cooling of the existing shelter; an additional internal rack will be added to the shelter but there will be no external modifications.

There were no questions or statements from the public. On a motion made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, the hearing was closed.

The Board then proceeded to hearing the application from the same applicant relating to 61R Milford Street. The applicant stated that this application only related to swapping in a larger antenna; other equipment would be accommodated in the existing shelter. Again, there were no questions or statements from the public. On a motion made by Mr. Biocchi, seconded by Mr. Cole and passed unanimously, the hearing was closed.

The Board then unanimously agreed to hear the application of Ms. Beth MacLeod, who appeared on her own behalf. Ms. MacLeod stated that she was seeking a kennel permit to acquire a fourth dog, a puppy. She presently owned two Pekinese and one golden retriever. All the dogs are pets and normally live within her house, which is approximately 4000 square feet. There is also a 3500 square foot barn on the premises.

The dogs do not leave the yard and are not left outside unattended. There have been no complaints from neighbors or from the Animal Control Officer. The dogs are not let outside before about 8 am. In response to questions from the Board, the applicant stated that she would have no objection to limiting the permit to four dogs, or to a condition that there be no commercial operations.

Three letters, one from the Animal Control Officer, were read into the record. The Animal Control Officer stated that there had be no problems at the subject lot. The residents of 53 Fisher Street and Mr. and Mrs. Price of 52/54 Fisher Street opposed the application on various grounds. The applicant noted that the house is set back about 100 years from the road so that the dogs are never on the street.

The Board then agreed to deliberate on the application relating to 113R Main Street. A motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the petitioner has demonstrated general satisfaction of the pertinent requirements listed in Section V.F.2 of the Zoning ByLaw. A second motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to find that the grant of the requested relief would not cause substantial detriment to the public good. Finally, a motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to grant to the applicant a special permit to modify the existing wireless communication facility in accordance with the application and supporting materials as submitted dated June 3.

The Board then agreed to deliberate on the application relating to 61R Milford Street. A motion was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously to make the same three findings as on the preceding application. A further motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to grant the same relief as one the previous application.

The Board then discussed a letter received from the Norfolk County Register of Deeds regarding the difficulties of indexing Board decisions in view of the lack of reference to preceding recorded deeds. The Board agreed to modify the front page of future decisions to incorporate a reference to the current property owner recorded in the Register.

On a motion made by Mr. Biocchi, seconded by Mr. Cole and passed unanimously the Board adjourned at about 10:15 pm.