

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING SEPTEMBER 21, 2011

Messrs. Musmanno, Cole, and Biocchi and Ms. Gould were present when the Chair called the meeting to order at 7:50 p.m.

By unanimous consent, the Board agreed to hear the application of Gregory Amante, who appeared on his own behalf together with his wife. Mr. Amante stated that the proposed auxiliary dwelling unit would be occupied by an *au pair*. This led to some questions from members of the Board as to whether the Board had the power to issue the auxiliary family dwelling unit (AFDU) permit in such a case; it was noted that although the Building Inspector actually checks the occupant of the AFDU when issuing an occupancy permit, it is doubtful whether the Board can issued a permit for persons other than those listed in the Zoning ByLaw.

In response to a question from the Board, Mr. Amante confirmed that the subject lot is presently listed as having the status of a single family residence, and the Building Inspector confirmed that modest changes could be made to restore the single family status.

On a motion made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, the hearing was closed.

The Board then agreed by unanimous consent to hear the application of Holly Parent, who appeared on her own behalf. The applicant explained that the present, essentially derelict, garage is about 20 x 20 feet and is not on a flood plain. The applicant seeks to demolish the existing garage, construct a new foundation, and build a new, somewhat larger garage, which would be slightly further from the side lot line than the existing garage. There was considerable discussion among the Board members as to whether the application should be treated as one for a variance, or under the provisions relating to pre-existing non-conforming uses, but it was ultimately decided that because the existing structure was to be completely razed and an entirely new building constructed in a different location, this must be treated as a petition for a variance. Board members then enquired about moving the location of the new garage northwards, away

from the adjacent side lot line. The applicant explained that the garage had to be kept a proper distance from the house, per the Building Code, and she also wished to maintain truck access to the rear part of the lot, which was occasionally necessary to remove trees etc. Also, moving the garage northwards would entail removal of additional trees, which the applicant hoped to avoid.

It was noted that the neighbor to the north has a garage/barn about 16 feet from their lot line; on other side of the subject lot, a driveway comes up to the property line, and the house on this side is separated from the side lot line only by the width of the driveway. The front setbacks of other houses on the street are about the same as the house on this lot. The proposed garage is typical for the area; a neighbor has a two-story barn about 16 feet from the north lot line of the subject lot roughly level with the back of the house on the subject lot.

No members of the public were present, so there were no questions or comments from the public.

On a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the hearing was closed.

Mr. Cole then presented his draft decision on the application of Village Realty Trust. After certain amendments were made by unanimous consent, on a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, the decision was adopted.

On a motion made by Ms. Gould, seconded by Mr. Biocchi and passed unanimously, the minutes of the August 3 meeting as presented by the Clerk were approved.

By unanimous consent, the Board agreed to deliberate on the application of Ms. Parent. A motion moved by Mr. Cole and seconded by Mr. Biocchi to treat this application as a request for variance resulted in a tie vote of 2-2, with Mr. Musmanno and Ms. Gould voting against. A further motion moved by Mr. Cole and seconded by Mr. Biocchi to table further deliberations passed by a vote of 3-1, with Mr. Musmanno dissenting.

By unanimous consent, the Board agreed to deliberate on the application of Mr. Amante. A motion made by Mr. Cole, seconded by Mr. Biocchi and passed

unanimously found that that the applicant has stated that the AFDU would be occupied by an *au pair*, a non-family member. A further motion made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously found that that the Board was not authorized by the Zoning ByLaw to grant a permit for an AFDU to be occupied by any person other than those listed in the ByLaw. Based upon the foregoing findings, on a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, the petition was dismissed without prejudice to re-presentation on change of the proposed occupant.

On a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board recommended to the Board of Selectman the appointment of Ms. Arlene Doherty as a regular member of the Board.

By unanimous consent, the Board authorized the Chairman to remind the Town Administrator that the Board was in urgent need of a new secretary.

By unanimous consent, the Board agreed that its next meeting should be set for October 5 at 7:30 p.m.

Following a motion to adjourn made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, the meeting was closed at 9:58 pm.