

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING JUNE 10, 2010

Initially, Messrs. Musmanno, Cole and Gluckler were present. The Chair called the meeting to order at 7.30 p.m. The warrants and the decision on the application of Mr. Newman were signed. The Chair raised the question of moving the meeting time to 7:45 pm in view of the Secretary's new work hours; there was no objection.

Gould and Mr. Biocchi then joined the meeting and, by unanimous consent, the Board proceeded to hear the application of Mr. Greene, of NRG Concepts, Inc., who appeared on his own behalf. The applicant stated that the third floor of the existing Medway Mill structure at 165 Main Street is approximately 3500 square feet and does not meet the Americans with Disabilities Act requirements since the only access is by stairs. To make the floor conform to ADA requirements, it is proposed to extend the height of the existing elevator. There will be no change to the elevator footprint. The change may proceed under Section IV.D.4.a of the Zoning ByLaw. It is further proposed to enclose the existing loading dock, which is essentially at grade. Stairs would extend from the top of the new elevator to the existing stairway via a new lobby. The loading dock is approximately 250 feet from the property line.

The third floor is presently in use; the proposed change simply makes it handicapped accessible. There will be four more spaces on the second floor which can now be leased. The second floor is being renovated into modern space with installation of sprinkler systems to render it suitable for a medical imaging business and others.

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

The Board next proceeded by unanimous consent to hear the application of Mr. Curran, who appeared on his own behalf. Mr. Curran stated that the proposed portico was sought largely for cosmetic reasons. There had been only a verbal application to the Building Inspector; no formal application had been made. The proposed portico would stand on a pre-existing slab having footers for its columns. The proposed portico

would reduce the front setback to 18 feet 8 inches. The house is pre-existing non-conforming; the reference to “lot shape factor” in the application is erroneous. No evidence was offered of similar setbacks on neighboring lots. The existing roof over the door extends out about two feet.

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

The Board then proceeded by unanimous consent to deliberate on the application of Mr. Greene. As a preliminary matter, it was agreed not to change the existing special permit for the lot but to make reference to Section 7 thereof.

On a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board found that the proposed alteration had no appreciable effect on the applicable intensity regulations of dimensional requirements of the Zoning ByLaw. Also, on a further motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board found that the proposed alteration would not increase the non-conformity of the building. On a third motion made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously, the Board found that the proposed alteration is not substantially more detrimental to the neighborhood or the public good than the existing non-conforming structure. Finally, on a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, the Board found that grant of the requested special permit would not be inconsistent with any of the criteria set out in Section III.J of the Zoning ByLaw.

Accordingly, on a motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board granted a special permit to the petitioner, John Greene, for alteration of an existing non-conforming structure at 165 Main Street in accordance with the planes presented in his petition and supplied as evidence at the hearing, the exterior alterations to structure authorized by this special permit to be in addition to the modifications permitted by Condition 7 of the Board’s Decision of August 2, 1995 in relation to the subject premises.

The Board next proceeded by unanimous consent to deliberate on the application of Mr. Curran. Some Board members expressed concern about the extent of

the proposed non-conformity, and noted that although the footing is in place this footing is not a structure, and considerations of bulk of the proposed structure are important. On a motion made by Mr. Cole, seconded by Ms. Gould, and passed on a vote of 4-1 (Mr. Biocchi dissenting), the Board found that construction of the proposed portico would substantially increase the extent of non-conformity of the existing structure. On a motion made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously, the Board found that the applicant failed to present any evidence that the front setbacks of buildings on adjoining lots were as small as that requested. On a third motion made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously, the Board found that the petitioner failed to demonstrate conditions relating to shape, topography or soil conditions of the subject premises which do not generally affect other land in the zoning district. In the light of the foregoing findings, on a motion made by Mr. Musmanno, seconded by Mr. Cole and passed on a vote of 4-1 (Mr. Biocchi dissenting), the petition for variance was denied.

On a motion made by Mr. Biocchi, seconded by Mr. Gluckler and passed on a vote of 4-0 (Mr. Musmanno abstained since he was not present at the relevant meeting), the Board approved the Clerk's minutes for the meeting of May 5, 2010 with one minor change.

The Board then reconsidered its earlier decision regarding changing the time of its meetings in view of the presence of additional members, and there was unanimous consent to the proposed change.

There being no further business before the Board, the meeting closed at about 9:20 pm.