

**TOWN OF MEDWAY**  
**ZONING BOARD OF APPEALS**

**MINUTES OF MEETING DECEMBER 2, 2009**

Messrs. Cole, Biocchi and Gluckler and Ms. Gould were present. In the absence of the Chairman, the Clerk chaired the meeting. The Chair called the meeting to order at 7.30 p.m.

By unanimous consent, the Board proceeded to hear the application of John and Jennifer Giovanella, who appeared with their attorney Deborah E. Batog, Esq. The attorney stated that the lot consisted of approximately three acres, and was formed long prior to the adoption of the Zoning ByLaw; the legal description of the lot can be traced back to at least 1854. The lot has no frontage on any public way but has access via a 25 foot wide easement over an adjacent lot. This easement is shared with several adjacent lots, one of which (44 Fisher Street) also has no street frontage but for which a variance has already been granted by the Board. Although the lot has sufficient area for several single family homes, the applicants seek only construction of one single family home with a detached garage. The lot is completely undevelopable without the requested variance, and there are several similar lots in Medway for which variances have previously been granted.

There were no questions from the public. Three people spoke in favor of the application, no one spoke against it.

The hearing was closed by a motion moved by Mr. Cole, seconded by Ms. Gould and passed unanimously.

By unanimous consent, the Board next proceeded to hear the application of Step by Step Studio of Dance, on whose behalf it principal Gloria Gonzalez appeared. Ms. Gonzalez stated that the dance studio had operating at this site for many years occupying about 2000 square feet. A neighboring tenant has vacated space adjacent the dance studio and the Special Permit was sought to allow expansion of the dance studio into this vacated space by the removal of a non-load bearing wall, thus approximately doubling the size of the dance studio to about 4,000 square feet. There are about 15-17 parking spaces for the building. The dance studio is a drop-off, pick-up type of business,

and the parking situation would be better with the enlarged dance studio than when a separate business occupied the other part of the building.

There were no questions from the public, and no one spoke for or against the application.

The hearing was closed by a motion moved by Mr. Cole, seconded by Mr. Gluckler and passed unanimously.

The Board then proceeded to deliberate the application of John and Jennifer Giovanella. There was a general consensus by the Board members present that the applicant had presented a strong case for use of a large lot, whose present form long preceded adoption of Zoning in the Town, and which could not be used in any way without a variance. Accordingly, on motions made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, the Board made the following findings:

(a) The subject lot is a pre-existing, nonconforming lot.

(b) The subject lot has no frontage on any public way, but has a 25 ft. right of way for access.

(c) The requested relief would not cause substantial detriment to the public good and does not nullify, or derogate from the intent and purpose of the Zoning By-law; and

(d) The subject lot is subject to conditions relating to shape which affect the subject lot, but do not generally affect other lots in the zoning district, namely that the subject lot does not lie adjacent to any public right of way, and that the present form of the subject lot long preceded the existence of the Zoning-By-Law; and further that literal enforcement of the provisions of the Zoning By-law would involve substantial hardship to the petitioner by precluding any development whatever on the subject lot.

In accordance with the preceding findings, and on a motion made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, the Board granted a variance of frontage from 180 ft to 0 ft, to allow the construction of one single-family home on the subject lot, subject to the condition that only one-single family dwelling be erected on this lot, and no additional dwellings be erected now or in the future, since the hardship relating to this lot has now been relieved by this variance.

The Board proceeded to deliberate on the application of Step by Step Dance Studio. On a motion by Mr. Cole, seconded by Mr. Gluckler and passed unanimously, the Board found that expansion of the area occupied by the dance studio would not be substantially detrimental to the public good and would not contradict any of the special permit criteria in Section III.J of the Zoning ByLaw. Accordingly, again on a motion by Mr. Cole, seconded by Mr. Gluckler and passed unanimously, the Board granted a Special Permit pursuant to Section V.D.4.a to the applicant for the alteration and expansion of the subject dance studio.

A motion was then made by Mr. Gluckler, seconded by Ms. Gould, and passed unanimously to accept the Minutes of the November 4 meeting as presented by the Clerk with two minor corrections.

There being no further business before the Board, on a motion made by Mr. Gluckler, seconded by Ms. Gould, and passed unanimously, the meeting was adjourned at approximately 9:00 pm.