

TOWN OF MEDWAY

ZONING BOARD OF APPEALS

MINUTES OF MEETING APRIL 2, 2008

All five members of the Board were present.

The meeting was called to order at 7:20 p.m.

There being no objection from any member, the Board proceeded immediately to hear the application of Ms. Pamela DeForest, who appeared on her own behalf. Ms. DeForest stated that the premises at 144 Holliston Street comprised approximately one-half acre, and included a fenced pool area. The dogs were kept in the house or within the pool area. There was no intention to engage in any commercial use. The dogs were respectively 8, 7, 6 and 2 years old, and all were acquired within three months of birth. There had been no complaints or actions by the Animal Control Officer. The dogs were normally kept inside, but were allowed outside, within the fenced area, for short periods unattended while the owner was in the house. There was a substantial separation between the house and adjacent buildings. The dogs were two pugs, a dachshund and a Labrador/border collie cross; the last-mentioned was about 60 lb, the three others less than 25 lb each. All dogs were spayed or neutered, and all dogs were brought into the house at night and had assigned sleeping areas. Ms. DeForest was aware that one of her neighbors does not like dogs barking at her; when the dogs are barking, they are brought inside the house. The dogs are sometimes walked on a leash.

In response to a question from the audience, the Chairman noted that kennel permits are personal and limited to the person to whom they are issued.

Flo Carucci of 142 Holliston Street stated that she objected to the proposed permit because she objects to dogs barking when she goes to her mailbox or walks in her yard.

John McKearnan of 146 Holliston Street asked whether the proposed permit would allow commercial operations. The chairman stated that this, and other aspects of the permit, such as the number of dogs, were typically regulated by conditions attached to the permit. Mr. McKearnan stated that Nancy, his wife, was annoyed by dogs barking when she is in her own yard.

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

The Board then proceeded with the continuation of the application of the Town of Medway. The letter from the Design Review Committee (DRC) was entered into the record, together with an E-mail from Mr. Dan Hooper. Mr. David D'Amico and Mr. Paul Yorkis appeared on behalf of the Town. Mr. Yorkis pointed out that the form of the sign suggested by the DRC was incorrect since the bus service is not being provided by the "T" (i.e., the MBTA) but by GATRA; furthermore, the carpool lot is available for anyone to use, for example a group of friends carpooling to New York City. A discussion followed on whether the Town had adopted a policy on sponsored signs. It was suggested that the DRC could be regarded as a representative of the Town, but the question remained whether the DRC had endorsed this type of sign. In this connection, Mr. Yorkis directed attention to the third paragraph of the DRC letter.

Mr. Yorkis pointed out that the Bank is paying for the signs but the Town would perform the physical installation. The signs were intended to be permanent.

Mr. Jacob of the DRC stated that the Deck's role was to offer comments to Town Boards. The DRC has some angst over this matter; the DRC did not vote on whether sponsored signs were desirable. The Town Administrator was very much in favor of the proposed signs. The DRC would not have a problem changing the "T" logo. The DRC's recommended sign would allow passing motorists to see the "Park & Ride" wording, while motorists turning or stopped at the light would be able to read the sponsorship data. Ms. Affleck-Childs, Planning Board Assistant, introduced a March 8, 2008 memorandum regarding sponsorship.

Mr. D'Amico commented that there was a general sense that the proposed Park & Ride lot and the signs were a good thing. The directional signs would necessarily be present; some acknowledgement of the Bank's role is reasonable. As the DPS Director, it was not Mr. D'Amico's role to make policy on advertising but the Town Administrator is in favor, and the present application was developed with input from the Zoning Enforcement Officer.

Mr. Yorkis noted that he had met with the Town Accountant and confirmed that the cost of paving the proposed lot was far in excess of \$5,000, and there

was no problem with procedure. Town Counsel had advised that the proposed deal did not violate state law. The Fire Chief was comfortable with the proposed lot, and the locations of the two signs were determined by the Safety Officer.

Mr. Dan Hooper of the Planning Board stated that he was not in favor of the application for the reasons already stated. The project was good, but the location was not, and it appeared that the project was almost an opportunity to create advertising signing.

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

The Board then proceeded to hear the application of the Marian Community. On behalf of the Community, Mr. Proia stated that the Planning Board was being cooperative and enforcing the Zoning ByLaw in a manner consistent with the Dover Amendment, and therefore this appeal would probably become moot. Accordingly, the Community requested a continuance. A motion to continue the hearing to May 21 at 7:30 pm was made by Mr. Musmanno, seconded by Mr. Biocchi and passed unanimously.

The Planning Board Assistant then introduced the various proposed Articles revising the Zoning ByLaw. On the proposed Amendment of Districts Commercial II and AR II, two members of the Board registered strong opposition. With regard to the proposed Amendment of Industrial District I, the Board enquired why the whole District could not be so rezoned. On the proposal the merge the Commercial I and II Districts, the question was raised why Commercial District VI could not be included. It was suggested that the special permit needs to be kept separate from the site plan review. The language in Sections 2(d) and (e) needed cleaning up, and in 3(g) the term "vary" could include an increase.

The Board then proceeded to deliberate on the application of Ms. DeForest, and voted 4:1 (Mr. Flotta dissenting) to grant a kennel permit for not more than four dogs subject to certain conditions. Full details of the deliberations and the conditions attached are given in the Board's Decision.

The Board then proceeded to deliberate on the application of the Town of Medway. A motion was passed 3:1 (Mr. Biocchi dissenting) that the petitioner failed to demonstrate circumstances relating to shape, topography etc. sufficient to justify a

variance. Accordingly, a motion to deny the variance was passed by the same margin. A motion to find that grant of an appropriately conditioned special permit would not be detrimental to the public good failed to pass on a 2:2 vote with Mr. Cole and Mr. Biocchi in favor. Accordingly, a motion to dismiss the application for a special permit without prejudice was passed 3:1, with Mr. Biocchi dissenting Full details of the deliberations and the conditions attached are given in the Board's Decision.