

TOWN OF MEDWAY
ZONING BOARD OF APPEALS
MINUTES OF MEETING JUNE 18, 2008

Present were Messrs. Musmanno, Cole, Gluckler and Flotta.

The meeting was called to order at 7:25 p.m.

There being no objection from any member, the Board proceeded to hear the application of Mr. Barstow, who appeared on his own behalf.

Mr. Barstow stated that the existing stairs extended out 7 feet from the front of the dwelling, leaving 14 feet to the street over a swale. The proposed new porch would only extend out 5 feet from the front of the dwelling. The applicant had approached the Zoning ByLaw Enforcement Officer (ZBEO) but was directed to the Zoning Board of Appeals and hence there was no decision by the ZBEO. The proposed porch would extend the full 20 foot width of the house and would be covered; the existing stairs are not covered. The adjacent houses do not appear to conform to the front setback required by the Zoning ByLaw. A neighbor has a porch which is flush with the edge of the house, with stairs descending to the street. With regard to the conditions required for granting a variance, the applicant noted that the swale contained a large amount of water when it rained, and in winter snow built up around the existing stairs. The porch would be a typical farmer's porch with a roof. The existing front door constrains the location of the stairs and provides a need for a landing to permit a turn on to the proposed stairs.

There were no questions from the general public.

Ms. Kathleen Hickey of 3 Narragansett Street spoke in favor of the application. She stated that the existing dwelling was an original 1920's park house worthy of preservation. The old drain at the lower end of the street had not been maintained and was now blocked. In heavy rain, the resultant ponding flooded parts of 3 and 4 Narragansett Street, with water building up past the stairs, and with similar snow banks in winter.

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

There being no objection from any member, the Board next proceeded to hear the application of Dr. Carchidi, who appeared in person. Dr. Carchidi stated that the ramp shown on the plans was already present. The proposed vestibule, which was needed to enable patients to access the rear parking lot directly from the office without working along a relatively narrow driveway alongside the office, could not be moved sideways because of an adjacent bulkhead. The applicant had no objection to the application being considered for a special permit under Article V.D.4(a) of the ByLaw. Access to the rear parking lot was via a shared driveway over Lot F under an easement.

There were no questions or comments from the general public.

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

There being no objection from any member, the Board next proceeded to hear the continued application of Marion Community. The chairman stated that there had been no change in status of the application, nor any written input. A motion to dismiss the application without prejudice was made by Mr. Cole, seconded by Mr. Musmanno and passed unanimously.

There being no objection from any member, the Board next proceeded to hear the continued application of Mr. Bruce. A motion was made by Mr. Flotta and seconded by Mr. Musmanno that grant of the requested special permit would not cause substantial detriment to the public good. The motion failed on a 2-2 vote, with Mr. Cole and Mr. Gluckler voting in favor of the motion, and Mr. Musmanno and Mr. Flotta against. Consequently, the Board decided unanimously to dismiss the application.

The Board proceeded to deliberate on the application of Dr. Carchidi. A motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that the proposed structure would not increase the extent of non-conformity in any substantial way. A second motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to find that the proposed alteration would not be substantially more detrimental to the neighborhood than the existing building. Finally, a motion was made by Mr. Musmanno, seconded by Mr. Cole and passed unanimously to grant a special permit to the applicant under Article V.D.4(a) of the ByLaw to construct a

vestibule and stairway in accordance with the supplied plans. Full details of the Board's findings and the special permit are given in the Board's Decision.

The Board then proceeded to deliberate on the application of Mr. Barstow. A motion was made by Mr. Cole and seconded by Mr. Musmanno to find that the ponding of water on the subject lot, and especially around the existing stairway, is a topographic condition which does not generally affect lots in the subject district. After some discussion, a motion was made by Mr. Musmanno, seconded by Mr. Flotta and passed unanimously to lay the preceding motion on the table in order that the Board members could inspect the subject lot.

The Board then unanimously agreed to deliberate on the application of Mr. Bruce. The Board voted unanimously (a) that the subject lot is unusually small owing to apparent conveyance of a substantial portion of the lot to the rear; (b) that the petitioner failed to demonstrate substantial hardship arising from these circumstances; (c) that in the light of the foregoing findings, the Board denied the petition for a variance; (d) that the proposed reduction in rear setback would not render resulting setback significantly different from rear setbacks on adjacent lots. A motion was made by Mr. Cole and seconded by Mr. Flotta to find in view of foregoing finding proposed relief would not be detrimental to public good. A motion was then made by Mr. Flotta, seconded by Mr. Gluckler and passed unanimously to put the foregoing motion on the table to enable the Board members to inspect the relevant area. The meeting was then recessed for about 20 minutes while the Board members inspected the subject lot.

After return from recess, a motion was made by Mr. Cole, seconded by Mr. Gluckler and passed unanimously to take the previously mentioned motion from the table. Comments were made that it was not clear from the inspection that ponding was a problem (the inspection has taken place at the end of a significant rainfall), and that no true swale appeared to be present at the front of the lot. A motion was made by Mr. Cole and seconded by Mr. Musmanno to find that the applicant had failed to demonstrate conditions relating to the shape, topography or soil conditions on the subject lot which did not generally affect other lots in the Zoning District, and had failed to demonstrate a hardship sufficient to support the requested variance. During discussion it was noted that it would be difficult to justify the full extent of the proposed porch even if a hardship

were found. The motion was passed unanimously, and the Board unanimously dismissed the petition for a variance.

The application of Army Point Communications was noted, and the Secretary was asked to check whether this application now fell within the jurisdiction of the Planning Board rather than the Zoning Board of Appeals. If it still fell with the present Board's jurisdiction, there was unanimous agreement that there was no objection to advertising this application.

The minutes of the meeting of June 4 were adopted unanimously.

The Board then agreed unanimously to adjourn.