

TOWN OF MEDWAY
ZONING BOARD OF APPEALS

MINUTES OF MEETING NOVEMBER 20, 2013

The Chairman called the meeting to order at 7.45 p.m. with all five members present.

The Board reviewed the application of Daniel Pires, and determined that more information was required, including a plan, before a hearing. However, since it appeared that the applicant could supply this information prior to or at the hearing, the Board agreed by unanimous consent to set this application for hearing on January 8, 2014 at 7:45 pm, and to instruct the Secretary to write to the applicant seeking the further information needed.

The Board then proceeded by unanimous consent to hear the application of Alex Miranda for relief from front setback requirements at 27 Barber Street. Mr. Miranda appeared on his own behalf and explained that although the subject lot was technically a corner lot subject to the 35 foot front setback requirement along both adjoining streets, there were no buildings close the subject lot along Winter Street (i.e., along the North side of the subject lot) and indeed Winter Street did not give access to other occupied lots. It was essentially impossible to place the desired shed in a position conforming to the 35 foot setback on both streets and the other required setbacks without placing the shed inconveniently close to the house; allowing a reduction in setback along (the essentially non-functioning) Winter Street would permit placement of the shed a convenient distance from the house without inconveniencing anyone else. The setbacks of several structures in the neighborhood, for example the garage on the lot immediately to the South, are less than the requested 15 feet.

Ms. Mary Jordon of 4 Crook Street and Ms. Anne Sakristos of 24 Barber Street both spoke in support of the application; no member of the public spoke against it and there were no questions from the public.

A motion was made by Mr. Biocchi, seconded by Ms. Gould and passed unanimously to close the hearing. The Board then proceeded, by unanimous consent, to immediate deliberation on this application.

A motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that the front setbacks on lots in the neighborhood vary from the 35 feet prescribed by the Zoning ByLaw. A further motion was made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously to find that no neighbors on the North side of the subject lot would be inconvenienced by reduction of the front setback on the side from 35 feet to 15 feet. A third motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that granted of the requested relief would not be substantially detrimental to the public good. A further motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to find that granted of the requested relief would not contravene any of the criteria for issue of special permits set out in Section III.J of the Zoning ByLaw. Finally, in view of the foregoing findings, a motion was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously to grant a special permit to the applicant for construction of a shed with a setback of 15 feet from the North lot line of 27 Barber Street along Winter Street.

The Board then, by unanimous consent, reopened deliberations on the application of GCCF New England. After some initial discussion, a straw poll of the Board members indicated that each member was in favor of granting the requested variances relating to sign area and height, but that no member was in favor of granting the requested variance relating to internal illumination of the sign. Accordingly, a motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the applicant demonstrated circumstances relating to shape and topography of the subject lot which do not generally affect the land in the zoning district. A further motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the applicant demonstrated circumstances relating to lot shape, namely the distance between the lot line and the actual edge of the roadway at the adjacent intersection, such that the sight distances from the roadway to the proposed are substantially larger than they would be in the absence of such circumstances, and that because of these increased sight distances, staying within the provisions of the Zoning ByLaw would hinder motor vehicle operations adjacent the subject lot. A further motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the portion of the sign exceeding the height permitted by the Zoning ByLaw was an ancillary structure intended to harmonize

with the proposed buildings on the site. A further motion was made by Mr. Cole, seconded by Ms. Doherty, and passed unanimously to find that the applicant failed to demonstrate sufficient circumstances to justify a waiver of the requirement of the Zoning ByLaw for external illumination of the proposed sign. Finally, a motion was made by Mr. Cole, seconded by Mr. Biocchi, and passed unanimously to find that the grant of the proposed relief as to sign height and area would not derogate from the intent of the Zoning By-Law. By unanimous consent, the Board asked that the record of the deliberations note that the Design Review Committee supports the additional height and sign area of the proposed sign.

A motion was then made by Mr. Cole, seconded by Mr. Biocchi and passed unanimously, to grant to the applicant:

1 A variance from the provisions of Zoning District CV, Section V.R.8, Table 5 to permit a total sign area of 60 square feet with each face not to exceed 30 square feet;

2 A variance from the provisions of Zoning District CV, Section V.R.8, Table 5 to permit a sign height of 10 feet 4 inches instead of 8 feet;

subject to the following conditions and/or restrictions:

(a) The sign shall be constructed substantially in accordance with Drawing # CFG13.0 submitted to the Board;

(b) The sign shall be placed at least 71 feet from any roadway; and

(c) The increase in sign area from 40 to 60 square feet is conditioned upon a reduction of signage on buildings to 20% below that permitted by the Zoning ByLaw.

For the avoidance of doubt, the Board specifically noted that it did not grant any variance from the requirement of Zoning District CV, Section V.R.8 that the sign be externally illuminated.

The Board then, by unanimous consent, reopened deliberations on the application of Mr. and Mrs. Mele. After some preliminary discussion, the Board determined that they needed to move to executive session for the purpose of considering the opinion received from Town Counsel in relation to this matter. A motion to this effect, with the addition that the Board would later be returning to open session, was made by

Mr. Cole and seconded by Mr. Biocchi. On a roll call vote, all members of the Board indicated approval of the proposed executive session, the Minutes of which are recorded separately.

On return from executive session, a motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to find that the variance granted by the Board in 1992 was null and void. A further motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to find that the applicants failed to demonstrate any conditions relating to lot shape, topography or soil conditions sufficient to justify the proposed variance. A third motion was made by Mr. Cole, seconded by Ms. Doherty and passed unanimously to grant no relief on this application.

A motion was made by Ms. Doherty, seconded by Ms. Gould and passed unanimously to accept the Minutes of the October 30, 2013 meeting as presented by the Chairman.

A motion to adjourn was made by Ms. Doherty, seconded by Mr. Biocchi and passed unanimously, and the Board adjourned at 9.54 p.m.