

**Town of Medway
Zoning Board of Appeals Meeting
Sanford Hall, Town Hall
155 Village Street, Medway**

**MINUTES OF MEETING
May 20, 2015**

David Cole, Chairman called the meeting to order at 7.45 p.m. Attending Board members were Mr. Olsen, Mr. Kennedy and Ms. Gould, Clerk.

General Business:

Public Hearings:

ROJEE

The Board, by unanimous consent, agreed to hear the application of Paul J. and Michael E. Rojee for relief from a two family residence to a three family residence. Speaking for Paul J. and Michael E. Rojee was Attorney Paul Kenney. Mr. Kenney spoke of the physical attributes of the property describing two units arranged one above another and a third unit. By not being able to rent out the pre-existing third unit a financial hardship is created for the Rojee's. Conversion to a three family would alleviate carrying costs of the property. There is sufficient parking for a three family residence. The slope and topography of the property is not common to other lots in the neighborhood, and since all three units are already in existence, no construction work is needed for conversion.

No member of the public spoke for or against the application and there were no questions from the public.

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

FAHEY

The Board then proceeded by unanimous consent to hear the application of Michael and Ann Fahey. Mr. Fahey appeared on his own behalf and sought a variance to keep chickens. Mr. Fahey explained that over 4 years ago he went to the town hall and asked about owning chickens. He was told that if they do not own roosters and have less than 10 chickens then they do not need a permit. Recently the building inspector and animal control officer brought it to the Fahey's attention that chickens are prohibited on a lot of less than 44,000 sq. ft.

Board members raised the issue that some hardship due to lot shape, topography or soil conditions must be proven to show need for a variance according to MGL Chapter 40A, so the question arises as to how owning chickens can be made to fit the criteria needed to grant a variance; just not having trouble with neighbors doesn't give a sufficient reason to grant a variance. Mr. Fahey stated that the nearby elementary school and pre-school children have used the chickens for educational purposes. Hence, the keeping of the chickens could arguably fall within the provision of Article V.F.1.c.4 of the Zoning By-Law, which permits "any other use determined by the Board of Appeals to be similar to one or more of the uses specifically authorized and not detrimental to a neighborhood", with the keeping of the chickens being held similar to the educational use permitted under Article V.F.1, first paragraph.

The Board opened the floor to public comments. Kathy Anderson of 208 Village Street, Medway spoke in favor of the chickens. They don't make noise and she sees beauty and educational value. She would like to see the Fahey's keep the chickens. Cindy Apgar also spoke in favor of the chickens, stating that they are contained within a fence therefore never on the street or loose; the chickens are clean, neat, no smell or noise.

Mr. Fahey suggests that educational consideration can be used to grant variance. Mr. Cole asked for written submissions from other neighbors that were not able to attend the hearing. Mr. Cole read into the record a letter from Health Agent Stephanie Bacon.

A motion was made by Mr. Cole to continue hearing to June 17th. Seconded by Mr. Olsen and passed unanimously.

POTHEAU

The Board then proceeded by unanimous consent to hear the application of the applicant of Robert Potheau.

Mr. Potheau requested relief to post two additional development signs at 4 Main Street, Medway. A special permit is needed for more than one development sign on one lot. The subject lot contains three separate buildings served by three separate driveways, and without separate development signs there is a risk of customers, and potentially emergency vehicles, entering the wrong driveway and needing to engage in dangerous maneuvers while correcting their errors; therefore; Mr. Potheau requests three signs for one lot. The driveway at 4 Main Street serves 8 businesses. A 2005 site plan was submitted. Both the Planning and Economic Development Board and the Design Review Committee have approved the proposed additional development signs.

Hearing no response from the general public ***Mr. Olsen made a motion to close the hearing, which was seconded by Ms. Gould and passed unanimously.***

DESMOND

The Board then proceeded unanimously to hear the applicant of John Desmond of Complete Builders. Antonio and Sarah Logon are owners of 20 Green Valley Road.

Applicants wish to construct an accessory family dwelling unit addition to the existing conforming structure, and to remove the existing porch. There are, wetlands in the rear of the property, and the addition does require the septic system to be moved.

The Board opened the floor to public comments. Mr. Phillip Giangarra of 24 Green Valley Road stated that has done a very similar addition and spoke in favor of the application.

Mr. Kennedy made a motion to close the hearing, which was seconded by Mr. Olsen and passed unanimously.

Mr. Chairman called for a recess 9:00, and called the Board back into session at 9:05.

Stephanie Mercandetti, Director, Community and Economic Development, spoke about progress in recruiting new Board members; a new member should be sworn in by June 3rd meeting.

The Board, by unanimous consent, moved to reopen deliberations on the application of Michelle Civetti. Since the Board determined that further information was needed from the Building Inspector, deliberations were postponed to June 17th. Mr. Olsen, having not been present during the hearing, will listen to the audio presentation before deliberations.

The Board then, by unanimous consent moved to deliberate the petition of John Desmond. Mr. Olsen felt the applicant met the requirements and setbacks. Project seems to be in harmony with the neighborhood. After some discussion, the Board determined the applicant meets the requirements and setback.

Mr. Cole moved to find that the applicant demonstrated the project is in compliance with the section V.L.3.c, d, e and g of the Zoning ByLaw, Sections a, b and f being matters left of the Building Inspector prior to issue of an occupancy permit. The motion was seconded by Mr. Olsen and passed unanimously. Mr. Cole further moved to find that the issue of the requested special permit would not cause substantial detriment to the public good. The motion was seconded by Mr. Olsen and passed unanimously.

Mr. Cole then moved to find that the grant of the requested special would not be contrary to the criteria for special permits set forth in Article IIIJ of the Zoning Bylaw. The motion was seconded by Mr. Olsen and passed unanimously. Mr. Cole then moved to grant to the applicant John Desmond a special permit for construction of accessory family dwelling at 20 Green Valley substantially in accordance with the plans provided with the application and initialed by the board. This motion was seconded by Mr. Kennedy and passed unanimously.

The Board then moved to deliberate the application of Robert Potheau. *Mr. Cole made a motion to find that the applicant demonstrated that the subject lot contains 3 separate buildings served by 3 separate driveways and that there is a need for separate signs for each driveway to avoid confusion by both the public and emergency services as to which drive they should access, which confusion has been shown to cause dangerous vehicle movements. Mr. Olsen seconded the motion, which was passed unanimously. Mr. Cole further moved to find that the grant of the special permit would not cause substantial detriment to the public good. Mr. Olsen seconded the motion, which was passed unanimously. Mr. Cole further moved that grant of the requested special permit would not be inconsistent with any of the criteria for special permits set forth in Article IIIJ of the Zoning ByLaw. This motion was seconded by Mr. Olsen and passed unanimously.*

Mr. Cole further moved to find that the applicant has demonstrated the need for additional development signs as necessary to facilitate safe ingress into the site. The motion was seconded by Mr. Olsen and passed unanimously.

Mr. Cole then moved to grant to the applicant, Robert Potheau, a special permit in accordance with Article V.R.8, Table 7 of the Zoning ByLaw for a second development sign at 4 Main Street, Medway substantial in accordance with the plan already approved by the Planning and Economic Development Board. The motion was seconded by Mr. Kennedy and passed unanimously.

The Board then, by unanimous consent, proceeded to deliberate the application of Paul J and Michael E. Rojee. *Mr. Cole moved to find that the applicant demonstrated that the subject premises were used as a three family residence for an extended period from approximately 1959-2011 and that the subject premises are still arranged as three separate apartments. The motion was seconded by Mr. Olsen and passed unanimously. Mr. Cole further moved to find that the applicant demonstrated that the subject premises are subject to circumstances relating to the shape, topography and soil condition which do not generally affect other land in the zoning district. The motion was seconded by Mr. Olsen and passed unanimously.*

Mr. Cole further moved to find that the applicant demonstrated that a literal enforcement of the Zoning ByLaw, namely maintaining the subject premises as a two family dwelling, would impose substantial financial hardship on the applicant. This motion was seconded by Mr. Olsen and passed unanimously.

Mr. Cole further moved to find that issue of the requested variance would not be substantially detrimental to the public good. This motion was seconded by Mr. Craig and passed unanimously. Mr. Cole then moved to grant to the applicants, Paul and Michael Rojee, a Variance in respect of 51 North Street, Medway for the

use of the premises as a three family residence, subject to the condition that at least nine (9) off street parking spaces be provided on the premises. Ms. Gould seconded this motion, which passed unanimously.

Adjournment

A motion to adjourn was made by Mr. Cole, seconded by Mr. Olsen and passed unanimously. The Board adjourned at 9:34p.m.

Respectfully submitted,
Wendy Harrington
ZBA Secretary