

Holliston Zoning Board of Appeals  
Meeting Minutes of September 17, 2014

**Present:** Chairman Henry Dellicker, John Love, and Associate Members Brian Liberis and Jay R. Peabody. Members welcomed Mr. Peabody to his first meeting with the group.

**Approval of Minutes** 6

On a motion by Mr. Liberis, seconded by Mr. Love, the members approved the minutes of August 13, 2014 as written (Mr. Peabody abstained as he was not present.).

**Special Permit Public Hearing – The Happy Retriever, 1562-1564 Washington St.**

The Chairman opened the public hearing at 7:15 p.m. and Mr. Liberis read the hearing notice into the record. Comment letters from the Fire Chief (dated August 11, 2014), Water Department (dated July 30, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated August 12, 2014) were also entered into the record.

Dorothy Turcotte was present to discuss her petition for a dog training center for over 4 dogs. It was noted that the use has been identified under the use category of "Kennel" by the Inspector of Buildings. She noted that she provides training within a second unit and has two "house dogs". She would like to provide daily programs for up to 10 dogs.

Members asked a series of questions about operations. Ms. Turcotte stated that she does provide outdoor relief and a ½ hour leash walk on a 1:1 ratio of person to dog. No overnight stays occur. Noise collars and training corrections are utilized to minimize noise. Hours of operation are proposed for 9 a.m. - 4 p.m. Monday 6 Friday with some evening classes lasting until 8 p.m., 9 a.m. 6 2 p.m. on Saturdays, and by appointment on Sundays. The adjacent retail operation has roughly corresponding hours.

Jeff McAdams of 74 Wedgewood Drive asked for a verification that no outdoor training would occur as well as a confirmation that no overnight boarding is proposed. Speaking in favor of the petition was Selectman Jay Marsden of 32 Wendy Lane, who noted he is a client. Mr. Liberis moved to close the public hearing. Mr. Love seconded with all in favor.

**Use Variance Public Hearing – Julie Smith, 36 Broad Acres Farm Rd., Medway**

The Chairman opened the public hearing at 7:25p.m. and Mr. Liberis read the hearing notice into the record. Comment letters from the Fire Chief (dated September 15, 2014), Water Department (dated August 28, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated September 11, 2014) were entered into the record. Mr. Liberis also noted a fee reduction request.

Ms. Smith was present to discuss her petition for a pool and cabana in Holliston. The principal dwelling and the majority of the lot area are with the Town of Medway in a residential zoning district. These accessory structures are proposed within the Holliston land area.

No one was present to speak in favor or against the petition. Mr. Liberis made a motion to reduce the application fee to \$250. Mr. Love seconded with the vote 2:1 (Mr. Love 6 nay and Mr.

Peabody abstaining). Mr. Love made a motion to close the public hearing. Mr. Liberis seconded with all in favor.

**Dimensional Variance Public Hearing – Anthony & Kerri Capela, 50 Amy Lane**

The Chairman opened the public hearing at 7:35 p.m. and Mr. Liberis read the hearing notice into the record. Comment letters from the Fire Chief (dated September 15, 2014), Water Department (dated August 28, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated September 11, 2014) were entered into the record.

Mr. and Mrs. Capela were present to discuss their plans to construct an addition to their existing dwelling. The 2-story 2-car garage addition with in-law apartment encroaches into the required minimum side yard setback on the eastern side of the property as indicated on the plan submitted. The front of the dwelling is oriented towards Amy Lane and the garage doors have been oriented to accommodate the existing driveway. The addition will be designed to match existing construction. The members reviewed the placement of the structure as well as the surrounding topography and alternative placements with the applicants.

No one was present to speak for or against the petition. Mr. Liberis made a motion to close the public hearing. Mr. Love seconded with all in favor.

**Dimensional Variance Public Hearing – Brian & Kerry Corbett, 0 Bullard Lane**

The Chairman opened the public hearing at 7:45 p.m. and Mr. Liberis read the hearing notice into the record. Comment letters from the Fire Chief (dated September 15, 2014), Water Department (dated August 28, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated September 11, 2014) were entered into the record.

Present with the applicants were Attys. Scott Carmen and David Jacowitz from Shaevel & Krems, LP. They provided the members with a 12-page handout entitled "Public Hearing and Application for Variance" dated September 17, 2014 and projected the handout for the audience. They also provided some details on conveyances of the parcel and others held in common ownership as well as a reference to a case known as Hayhurst [Land Court No. 262031 (2007)]. Reference was made to a recorded plan of land prepared by McCarthy & Sullivan Engineering, prepared for John A. Kostick, dated October 4, 1977 (Plan number 1163 of 1977). It was noted that an additional lot in Millis was conveyed in 2008 and the Corbetts were gifted the land in March 2013.

The Chairman asked if there were any questions from the audience. Tom and Donna Roche of 78 Bullard Lane, Millis, Jack Hathway, President of Bullard Memorial Farm Association, Lisa Wilk of 79 Bullard Lane, Millis, and Paul Coutinho of 80 Bullard Lane, Millis asked questions regarding the transfer of the lot, zoning relief requested, and hardship standard. Mr. Roche noted that his attorney, Gerald Moody was present and had prepared some comments for submittal. Mr. Hathway noted the proximity of the caretaker's cottage at Bullard Memorial Farm in Holliston. Mr. Coutinho noted that it had been represented to him that this adjacent lot was not buildable. He expressed a concern for negative impacts of headlights and snow removal and noted the blind spot in the roadway given its proximity to the intersection. Atty. Moody presented a 5-page letter

to the members dated September 17, 2014 concluding that the Board should deny the variance relief requested by the petitioners.

Members requested additional information on the Hayhurst decision. Mr. Love made a motion to continue the public hearing until 7:35 p.m. on Wednesday, October 15, 2014. Mr. Liberis seconded with all in favor.

## **DELIBERATIONS**

### **1. Special Permit – 1562-1564 Washington Street**

The Board's vote to approve the petitioner's Special Permit application with conditions for relief under the provisions of Section III-A (41) for the property located at 1562-1564 Washington Street was as follows on a motion by Mr. Love, seconded by Mr. Liberis:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye

### **Conditions of Approval**

1. This Special Permit is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11. The copy of the decision to be filed must contain a certification by the Town Clerk that 20 days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.
2. Any kennel activity at the site (i.e. group training, play groups and events) shall be limited to a maximum of ten (10) dogs.
3. Kennel activities are hereby limited and do not include any overnight boarding or any outside kennels.
4. Kennel hours are limited to 9:00 a.m. to 8:00 p.m. daily. Occasionally the time may be extended to 10:00 p.m. by appointment only.
5. As indicated in application materials and testimony, noise limiting measures shall be put into practice to the extent feasible.
6. Any outdoor activities shall be supervised on a 1:1 person to dog ratio.

### **2. Use Variance – 36 Broad Acres Farm Road, Medway**

#### **Findings of Fact**

The Board reviewed the application materials and testimony provided by the Petitioner as well as comment letters from the Fire Chief (dated September 15, 2014), Water Department (dated August 28, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated September 11, 2014). The parcel is within an existing residential subdivision approved by both the Holliston and Medway Planning Boards. In accordance with the provisions of Section IV-D (3), the Board finds that the location of the Town line and the zoning district contribute to hardship as no portion of the lot could be used for industrial uses and the proposed accessory residential uses are reasonable. They also determined that the proposed uses are not detrimental to the public good and the relief requested

may be granted without nullifying or substantially derogating from the intent or purpose of the By-Law.

### **Zoning Board Vote**

The Board's vote to approve the Petitioner's Use Variance application for relief under Section IV-D (3) for property described and located at 36 Broad Acres Farm Road, Medway was as follows on a motion by Mr. Liberis seconded by Mr. Love:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye

### **Conditions of Approval**

1. This Use Variance is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11. The copy of the decision to be filed must contain a certification by the Town Clerk that 20 days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.
2. Construction shall be in accordance with the plan of record entitled "Proposed Pool in Medway & Holliston, MA" dated July 11, 2014 prepared by Colonial Engineering, Inc., Medway MA.

### **3. Dimensional Variance – 50 Amy Lane**

#### **Findings of Fact**

The Board reviewed the application materials and testimony provided by the Petitioner as well as comment letters from the Fire Chief (dated September 15, 2014), Water Department (dated August 28, 2014), Police Department (dated September 8, 2014) and Conservation Agent (dated September 11, 2014). In accordance with the provisions of Section IV-B, the Board finds that the Petitioner has demonstrated that the topography of the lot and the placement of the existing dwelling on the parcel present a hardship and the relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent and purpose of the By-Law.

### **Zoning Board Vote**

The Board's vote to approve the Petitioner's Dimensional Variance application for relief under Section IV-B for property described and located at 50 Amy Lane was as follows on a motion by Mr. Love, seconded by Mr. Liberis:

Chairman Dellicker	Aye
Mr. Love	Aye
Mr. Liberis	Aye

### **Conditions of Approval**

1. This Dimensional Variance is not valid until recorded and indexed at the Registry of Deeds in accordance with the provisions of MGL, c. 40A, s. 11. The copy of the decision

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to be filed must contain a certification by the Town Clerk that 20 days have elapsed since after the decision was filed and that no appeal has been filed or if such appeal has been filed, that it has been dismissed or denied.

2. Construction shall be no closer than 21 feet to the eastern side lot line as indicated on the application materials provided.
3. Construction materials and architectural style of the 2-story garage and addition shall be consistent with existing construction.

The meeting adjourned at 9:40 p.m. The next meeting was scheduled for October 15, 2014.

Respectfully submitted,

Karen Sherman  
Town Planner