

## MEDFORD TOWNSHIP ZONING BOARD OF ADJUSTMENT

19 October 2022 - 6:00 p.m.

Public Safety Building - 91 Union Street

Attorney Jerry Dasti called the meeting to order at 6:02 p.m. and read the Statement of Conformance with the Open Public Meetings Act and the Municipal Land Use Law.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

Present: Cocivera, Meehan, Rickards, Stefanoni, Morrison  
Absent: Pullman, Simmers, Wolf (\*Hamilton)  
Professional Staff: Attorney Jerry Dasti, \*Planner Michelle Taylor, Secretary Ann Bell

**WORKSHOP SESSION:** Vice Chairman Rickards motioned for a Workshop Session at 6:04 pm. Mr. Meehan seconded. Board Attorney, Jerry Dasti, presented this workshop. He described the role of the Attorney and the work they put forward in reviewing applications as they relate to the Master Plan and zone district zone district requirements, along with the Attorney's responsibilities to the Zoning Board members and applicants. He also explained he represents the Zoning Board for any litigation resulting from the Board's decision, so it is important for Board members to comment when voting to deny an application so that the reason for the denial can be included in the memorialization Resolution; as Judges look to the resolution when rendering any appeal decisions. (*\*Mr. Hamilton joined the meeting at 6:30 pm.*)

The Workshop meeting concluded at 6:59 pm on motion of Mr. Hamilton; Mr. Meehan seconded. The regular meeting resumed at 7:04 pm.

*\*Mrs. Taylor joined the regular meeting at 7:00 pm.*

### CORRESPONDENCE:

Ms. Bell referenced an email from Michael Meyer, representing the M2 Properties application, (M2 Properties, 131 Mt. Holly Road, Block 404.07; Lot 24, ZVE-1114) requesting that the application be further continued to the December Board meeting to allow the applicant sufficient time to clear the property of the sea boxes and other personal belongings. Chairman Cocivera asked if anyone was present to speak on this application, for which there was no one. Mr. Hamilton made a motion to further continue the application to the December 2022 meeting without the need to re-notice; Vice Chairman Rickards seconded. The vote was unanimous (6-0) in favor.

**MINUTES:** None

**REPORTS:** None

### **RESOLUTIONS TO BE MEMORIALIZED:**

**Sebastian Dronski–2 Lippincott Court, Block 805.01; Lot 36, ZVE-1132. Resolution #2022-34**  
Bulk Variance approvals to erect both 4' & 6' vinyl fence (inc. solid) on a corner property with two front yards, whereby front yard fences cannot exceed four feet and must be constructed of wood with 50% opacity. Zone: GMN

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Recorded Vote

Ayes: Hamilton, Meehan (2), Rickards (M), Stefanoni, Morrison, Cocivera  
Nays: None  
Abst.: None  
Motion carried: 6 - 0 - 0

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**Michael Schillaci & Dana Angelo, 91 Christophers Mill Rd, Block 2202; Lot 3, ZVE-1116. Resolution #2022-35**

Bulk variance approvals to construct an 18' x 21' (378sf) one story addition requiring rear yard setback relief whereby 13' is proposed; 26.38' is existing (pre-existing/non conforming) and 50' is required. **Zone: GD**

Recorded Vote

Ayes: Hamilton (M), Meehan, Rickards (2), Stefanoni, Morrison, Cocivera  
Nays: None  
Abst.: None  
Motion carried: 6 - 0 - 0

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**Appointing Ann Bell as Zoning Board Secretary. Resolution #2022-36**

Recorded Vote

Ayes: Hamilton (M), Meehan, Rickards, Stefanoni, Morrison (2), Cocivera  
Nays: None  
Abst.: None  
Motion carried: 6 - 0 - 0

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**APPLICATIONS/OFFICIAL:**

**John Pensabene, 10 Woodland Avenue, Block 3803; Lot 4, ZVE-1130** - Seeking Bulk Variance approvals to construct a 12'W x 24'D (288 square feet) detached garage requiring side yard setback relief whereby 5' is proposed and 15' is required. **Zone: GD**  
*(\*continued from the September 21, 2022 meeting)*

**SWORN:** John Pensabene, Owner

Mr. Pensabene opened his testimony by stating that he has decided to relocate the proposed garage to the other side of the property as had been discussed at the September meeting; but is requesting to place it 5' from the property line (where 15' is required) as the 15' would make it too close to the dwelling; and would also necessitate the removal of two large trees. He opined that the drainage should not adversely affect the adjoining property. He will not add electric; it will be used for storage only. He will maintain the garage door and one man-door; windows are to be decided. He will connect the existing fence to the garage.

Mrs. Taylor suggested to the Board that gutters be added to the garage; and that Mr. Noll inspect prior to issuance of the CO to insure the drainage does not have an adverse effect. Board members discussed the recommendation that a grading plan be submitted in order to assure that the drainage will not adversely affect the neighbor's property.

**PUBLIC:**

Loretta Horton – 100 Woodland Avenue. She lives to the left of Mr. Pensabene where the garage is now proposed to be located. She wanted to know his intentions about the fencing. She would also prefer the Board to require the grading to be checked to insure it won't affect her property.

Mr. Morrison made a motion to close the public portion. Vice Chairman Rickards seconded. The voice vote was unanimous in favor.

**MOTION:** Mr. Hamilton made a motion to continue the application for the detached garage in the new location 5' from the property line; contingent upon it matching the house and that the Board Engineer will evaluation the drainage to insure there are no adverse affects to any neighboring properties. Vice Chairman Rickards seconded.

**Recorded Vote:**

|                 |   |
|-----------------|---|
| Ayes:           | Hamilton, Meehan, Stefanoni, Morrison, Rickards, Cocivera |
| Nays:           | None  |
| Abst.:          | None  |
| Motion carried: | 6 - 0 - 0   |

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**M2 Properties, 131 Mt. Holly Road, 404.07/24, ZVE-1114**

Seeking a d(1) or d(2) Use Variance determination to permit multiple existing uses on the parcel, including a residence, a property management company, and a landscaping contractor. (*\*Continued from the August 17, 2022 meeting*)

Per above correspondence and vote, this application was continued to the December 2022 meeting.

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**James Jefferson, 35 Jackson Road, 4801.01/9, ZVE-1011**

Seeking Bulk Variance approvals as required from the minimum 15 feet side yard setback to permit a 30-feet by 20 feet oversized play set/outdoor physical fitness equipment (600 SF), 3.4 feet to the southern property line for use as part of the principal use of training facility. A Bulk Variance is required from the minimum building setback distance of 20 feet where no separation is provided between the training building and massage building and approximately 10 feet between the dwelling and massage therapy business shed structure.

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**SWORN:** Douglas Heinold, Esq.  
James Jefferson & Nicole Webb, Owners  
Daniel Patterson, P.E. & Surveyor

Mr. Heinold opened the testimony by summarizing the application presented at the January meeting where the Board bifurcated the application and granted the expanded use variance for the continued use of the property as both a residence and for commercial use for Mr. Jefferson's fitness training and Ms. Webb's massage studio. Based upon the Board and Board professional's comments, Mr. Jefferson was to return in six months for site plan approval. Mr. Jefferson & Ms. Webb faced some health issues and other challenges in improving the property, and appreciate the Board's understanding by allowing them the added time to return for the site plan approval.

Mr. Heinold continued by explaining that two bulk variances are required; one for the exercise area requiring setback relief, and another for the shed that houses the massage business that is located 10 feet from the dwelling. The testimony will detail how the shed will be joined/combined architecturally with the fitness training building on the other side.

Mr. Jefferson was next to testify. He detailed that since the last meeting, he has removed the large chicken coop enclosure (and replaced with a conforming one), removed the non-permitted driveway and gate, removed the majority of bamboo, re-sodded and seeded the front yard, removed the mounds in the front yard, planted at least 25-35% of the landscaping plantings as recommended by Mrs. Taylor, removed two dumpsters full of refuse, including all that was in the wetlands areas, removed the box truck, replaced the monument sign, painted all buildings to match, and power washed the cedar exteriors.

Exhibit A-2 was distributed at the meeting, which was a rendering of the proposed front elevation to combine the facades of the massage center shed and fitness center.

Mr. Jefferson went on to discuss the outdoor fitness area. It was originally set-up when Covid started so that his clients could continue training safely, but was supplemented by the subsequent demand. The owners of the Animal Hospital next door have no objections to it, and in fact wrote a letter of support to the Township. After some comments from Board members and Mrs. Taylor, Mr. Jefferson agreed to add some landscaping and a couple of replacement trees to screen it. He also stated he plans to add additional fencing in the front and side yard once the landscaping is all planted.

In regards to the location of the massage shed, Mr. Jefferson explained that is was the only space available to place it. Although the lot is large, it is constrained by wetlands and wetlands buffers, plus setback requirements. There is a shared restroom with the fitness center, which is allowable per the construction code official; and the two businesses share many of the same clients who partake of both services during the same visit.

Mr. Patterson was next to testify. He previously prepared surveys of the property and delineated the wetlands and transition buffer areas. He described the buildings and structures remaining on the

property, including not only the buildings under discussion, but also the accessory greenhouses, a conforming chicken coop, and the outdoor fitness area.

Mrs. Taylor clarified one item in Mr. Patterson’s testimony, being that the climbing wall was a type of “fencing.” It exceeds the height limit so it should be an accessory feature; and if the climbing wall were to be removed for any reason, conforming fencing should be added in its place. She also noted the landscaping boulder features currently in the front yard parallel to the roadway should be moved further back out of the right-of-way, including where fence will be installed in the front and side yards.

Mrs. Taylor went on to explain to the Board that the site plan was requested as a benchmark of the existing conditions if so approved by the Board for future reference by Zoning staff. She acknowledged and appreciates the great efforts made by Mr. Jefferson & Ms. Webb to date, and her only comment would be that a couple of additional trees be added to each side of the parking area. They do not need to be large; smaller ornamental trees such as crepe myrtles would suffice.

**PUBLIC:**

Robert Lee- (no address given). He is a personal friend to Mr. Jefferson and supports the efforts he has invested on the property to date. He has tried to do everything that the Township & Board has asked him to do. He is respected in the community and the property is greatly improved.

Vice Chairman Rickards made a motion to close the public portion. Mr. Hamilton seconded. The voice vote was unanimous in favor.

**MOTION:** Vice Chairman Rickards made a motion to approve the application as submitted, with the following conditions: (1) addition of trees as recommended by Mrs. Taylor; (2) the climbing wall will not be expanded and will be removed if/when the outdoor fitness area is removed; (3) the boulders will be relocated out of the ROW; (4) the massage shed and fitness building will be joined together with a new façade as proposed in the rendering submitted; and (5) any exterior lighting will be warm down lighting. Mr. Hamilton seconded.

**Recorded Vote:**

|                 |   |
|-----------------|---|
| Ayes:           | Hamilton, Meehan, Stefanoni, Morrison, Rickards, Cocivera |
| Nays:           | None  |
| Abst.:          | None  |
| Motion carried: | 6 – 0 – 0   |

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**Sam’s Medford Service Center, 108 Route 70, 901/4, ZVE-1131**

Expansion of a non-conforming use, to utilize 100% of an existing garage/storage building for automobile lifts that has been vacated.

**SWORN:** Jeffrey Baron, Esq., Barn & Brennan Law Firm, LLC  
Sam Mammoccio, Tenant & Owner of Sam’s Auto Repair  
Dave Woolston, Owner  
Joseph Mancini, P.E. & P.P., Tri-State Engineering

Mr. Baron opened the testimony by providing a history of the site. The last approvals granted by the Board were to the former owner to construct a road from the rear garages around the front of the office building to the existing driveway; however this has not been constructed as yet by the new owner.

In this application, no physical changes are being proposed for this site. Rather, an expansion of a non-conforming use granted previous approvals by the Board to Sam's Auto Repair to permit the business to use the other half of the existing garage. Mr. Baron opined that this will allow Sam's to move the cars off the parking lot, and to provide more overnight parking in a secured garage area.

Mr. Mammoccio was next to testify. He began by explaining how he has been in business at this location for 10 years. His operations are not proposed to change. His hours are Monday thru Friday from 7am to 6pm. He currently employs 5 mechanics, and may add one more due to the increased number of vehicles he is servicing. He has six lifts on one side of the garage he currently occupies, and by occupying the other side he will have three additional lifts. This will help the efficiency of his operations, as opposed to increasing the number of cars serviced. The added garage space is anticipated to decrease the number of vehicles parked along the driveway.

He continued that no discernible increase in deliveries is expected; most are auto parts and tires and the trucks are in and out quickly. Motor oil, transmission fluid, etc is stored in drums and is removed by companies to be recycled.

Mr. Baron added that the property owner and Mr. Mammoccio are aware of the comments in Mr. Noll's review letter about the parking and stacked used tires in the wetlands, and have already taken steps to cease. Mrs. Taylor commented the prior application required a horse type fence along the wetlands line in order to clearly delineate this restricted activity area.

Mr. Woolston was next to testify. He purchased the property in August of 2021. He reiterated that it was the former owner who received approvals for the bypass road and fencing. He described the garage being 7400sf; with Sam's currently occupying 3500sf. Approvals will allow his to nearly double the garage space he will utilize. He intends to lease the 2400sf office building as office space, which is currently vacant. He committed to working with Mr. Mammoccio on the comments included in Mr. Noll's and Mrs. Taylor's review letters.

Mr. Mancini was next to testify. He explained Exhibit A-1; a colorized rendering display board of the site plan dated November 2019, which was approved by the Board when the prior approvals were received. He pointed out the State right of way and the wetlands.

He acknowledged the potholes in the entry driveway and the fence sections in disrepair that were noted in Mr. Noll's review letter. He reiterated that the owner is committed to making the necessary repairs.

He continued that the owner has agreed to install the bypass road, even though neither the owner nor Mr. Mammoccio believes the road is needed. Discussion ensued, with Mr. Dasti and Mrs. Taylor stating that the road was proposed by the prior owner and not mandated by the Board, so it does not need to be constructed. That being said, Mrs. Taylor again stated that the fence delineating the wetlands should be rebuilt using a more sturdy horse type fence in order to prevent encroachment into the wetlands areas.

Mr. Mancini concluded his testimony by going through the positive and negative D use variance criteria, focusing on the facts presented that there are no changes to the approved use and no detriment to the zone district plan; and the benefit that the site appearance will be enhanced by the reduction in vehicles being parked along the driveway; and that this activity is a low traffic generator compared to other permitted uses.

**PUBLIC:** No one from the Public spoke.

Mr. Hamilton made a motion to close the public portion. Mr. Morrison seconded. The voice vote was unanimous in favor.

**MOTION:** Mr. Hamilton made a motion to approve the application as submitted, conditioned upon addressing the issues noted in the Board Engineer's review letter, and that the previously approved fence will be erected in accordance with the Board professional's recommendations. Vice Chairman Rickards seconded.

**Recorded Vote:**

|                 |   |
|-----------------|---|
| Ayes:           | Hamilton, Meehan, Stefanoni, Morrison, Rickards, Cocivera |
| Nays:           | None  |
| Abst.:          | None  |
| Motion carried: | 6 – 0 – 0   |

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**GENERAL PUBLIC:** No one from the public was present to speak.

Mr. Hamilton made a motion to close the general public portion of the meeting. Mr. Meehan seconded the motion. The voice vote was unanimous in favor.

**EXECUTIVE SESSION:** None

**ADDITIONAL ACTION(S) BY THE BOARD:** None

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**MOTION FOR ADJOURNMENT:**

Mr. Hamilton made a motion to adjourn the October 19, 2022 Zoning Board of Adjustment meeting at 8:54 pm. Vice Chairman Rickards seconded the motion. The voice vote was unanimous in favor.



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Ann Bell, Zoning Board Secretary



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Beth Portocalis, Recording Secretary