

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member
Adam Kaufman, Associate
Member



Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 321-4890
zoning@townofmedway.org

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
SPECIAL PERMIT/ACCESSORY FAMILY DWELLING UNIT
10 MAPLE STREET

Applicant: Amanda and Taylor Costa

Location of Property: 10 Maple Street (Assessor Parcel ID: 39-049)

Approval Requested: The application is seeking a **Special Permit for an Accessory Family Dwelling Unit (AFDU)** under Zoning Bylaw Section 8.2 to build a detached accessory family dwelling unit.

Members Voting: Brian White, Chair; Gibb Phenegar, Vice Chair; Joe Barresi, Member; Tom Emero, Member; Adam Kaufman, Associate Member, sitting by designation

Date of Decision: July 17, 2024

Decision: GRANTED WITH CONDITIONS

I. PROCEDURAL HISTORY

1. On June 20, 2024, the Applicants filed for a Special Permit for an Accessory Family Dwelling Unit (AFDU) under Zoning Bylaw Section 8.2.
2. Notice of the public hearing was published in the Milford Daily News on July 3, 2024, and July 10, 2024, and notice sent by mail to all parties in interest and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on July 17, 2024. The hearing was closed that evening.
4. The Property at 10 Maple Street is located in the AR-II (Agricultural Residential II) District. The front setback requirement is 35 feet, and the side and rear setback requirements are 15 feet. The minimum lot area requirement is 22,500 square feet., and the minimum lot frontage requirement is 150 feet.

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RECEIVED TOWN CLERK
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5. The Board notified Town departments, boards, and committees of this application.
6. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal's files and listed in Section V of this Decision.

II. SUMMARY OF EVIDENCE AND TESTIMONY

The Chair designated associate member Adam Kaufman to sit on this hearing in the absence of member Christina Oster.

David Gallant, Contractor/Architect and Seth Holden for SAH Design, representatives for Amanda and Taylor Costa were present. Mr. Holden stated the Costa's would like to add an AFDU, free standing unit off their driveway, approximately 400 square feet with an approximately 80 square foot screened in porch on the back, with one bedroom and the entrance on the side. The design has a carriage house look. The Board members pointed out that, since the request is for a detached unit, the Town Department of Public Works requires it to be on a separate water and sewer service. Also, because the AFDU will be constructed close to the 15-foot zoning bylaw set-back, the AFDU location should be staked out. It was asked if any trees were being removed, Mr. Gallant stated possibly pruning of trees, but no removal. It was confirmed that the loft space on the second floor is for storage only. It was also confirmed that the construction will be slab on grade, with no basement.

III. FINDINGS

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A, as amended, and by the Medway Zoning Bylaw. The Board also considered the Plans, comments from Town officials and committees, and evidence and testimony presented at the public hearing.

A. Section 8.2 Accessory Family Dwelling Unit Criteria

The Board found that the application meets all the required criteria for Section 8.2 on the following findings:

1. An accessory family dwelling unit shall be located within:
 - a. a detached single-family dwelling (principal dwelling unit); or
 - b. an addition to a detached single-family dwelling (principal dwelling unit); or
 - c. a separate structure on the same premises as a detached single-family dwelling (principal dwelling unit).

The proposed AFDU is a separate structure on the same premises as a detached single-family dwelling (principal dwelling unit).

2. There shall be no more than one accessory family dwelling unit associated with a detached single-family dwelling (principal dwelling unit).

The proposed AFDU is the only AFDU on the premises.

3. No accessory family dwelling unit shall have more than one bedroom, unless a second bedroom is authorized by the Board of Appeals pursuant to 8.2.C. 8.

The proposed AFDU will have only one bedroom as shown on the Architectural Plans.

4. An accessory family dwelling unit shall not exceed 800 sq. ft. of gross floor area.

The proposed AFDU will be less than 800 square feet.

5. There shall be at least one designated off-street parking space for the accessory family dwelling unit in addition to parking for the occupants of the detached single-family (principal dwelling unit). The off-street parking space shall be located in a garage or in the driveway and shall have vehicular access to the driveway. The location, quantity, and adequacy of parking for the accessory family dwelling unit shall be reviewed by the Board of Appeals to ensure its location and appearance are in keeping with the residential character of the neighborhood.

There will be at least one designated off-street parking space for the accessory family dwelling unit in the driveway for the AFDU.

6. Occupancy of the single-family dwelling (principal dwelling unit) and accessory family dwelling unit shall be restricted as follows:

a. The owners of the property shall reside in one of the units as their primary residence, except for bona fide temporary absences due to employment, hospitalization, medical care, vacation, military service, or other comparable absences which would not negate the primary residency standard. For purposes of this Section, "owners" shall mean one or more individuals who hold legal or beneficial title to the premises.

The owners of the property shall reside in one of the units as their primary residence.

b. The accessory dwelling unit and the detached single-family dwelling (principal dwelling unit) shall be occupied by any one or more of the following:

- i. the owner(s) of the property;
- ii. the owner's family by blood, marriage, adoption, foster care or guardianship;
- iii. an unrelated caregiver for an occupant of the detached single-family dwelling or the accessory family dwelling unit, who is an elder, a person with a disability, handicap or chronic disease/medical condition, or a child.

The accessory family dwelling unit will be occupied by the owner's relative.

7. An accessory family dwelling unit shall be designed so as to preserve the appearance of the single-family dwelling (principal dwelling unit) and be compatible with the residential character of the neighborhood. Any new separate outside entrance serving an accessory family dwelling unit shall be located on the side or in the rear of the building.

The Board found that the AFDU meets this criterion.

B. Section 3.4 Special Permit Decision Criteria

The Board found that the application meets all the required Special Permit Decision Criteria for Section 3.4 on the following findings:

1. The proposed site is an appropriate location for the proposed use.
2. Adequate and appropriate facilities will be provided for the operation of the proposed use.
3. The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.
4. The proposed use will not cause undue traffic congestion or conflicts in the immediate area.
5. The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site, or operational attributes of the proposed use.
6. The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.
7. The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.
8. The proposed use is consistent with the goals of the Medway Master Plan.
9. The proposed use will not be detrimental to the public good.

The Board finds that the Applicants have demonstrated through evidence submitted, including the Pan, the Architectural Plans, review of the square footage and usage of the AFDU, that it has met all the required Special Permit Decision Criteria under Section 3.4 of the Zoning Bylaw, including that any adverse effects will not outweigh its beneficial impact to the town.

IV. CONDITIONS OF APPROVAL

1. Smoke, heat and carbon monoxide detectors must be installed in accordance with the Massachusetts Fire and Building Codes.

2. This special permit is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the special permit that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a new request.

3. Any work or use that deviates from this Decision may be a violation of the Medway Zoning Bylaw. All conditions imposed by this Decision are mandatory, and any violation of a condition imposed by this decision may be a violation of the Medway Zoning Bylaw. Any violations of this Decision may prevent the issuance of a building permit and/or occupancy permit or result in the issuance of a cease-and-desist order, noncriminal penalties, or fines, as further provided in Section 3.1 of the Zoning Bylaw. Please note that Section 3.1.F of the Zoning Bylaw provides:

1. Anyone who violates a provision of this Zoning Bylaw, or any condition of a variance, site plan review decision or special permit, shall be punishable by a fine of not more than three hundred dollars for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.

2. As an alternative means of enforcement, the Building Commissioner may impose noncriminal penalties pursuant to G.L. c. 40, § 21D and Article 19 of the Town's General Bylaws, in accordance with the following schedule:

First offense: warning (verbal or written)

Second offense: one hundred dollars

Third offense: two hundred dollars

Fourth and each subsequent offense per violation: three hundred dollars

4. As provided in Section 3.4.E of the Zoning Bylaw, special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date, except for good cause. Upon receipt of a written request by the applicant filed at least 30 days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested.

5. Stormwater shall be managed through subsurface infiltration units or other engineer designed systems. Any and all new gutters and downspouts shall not be placed in a manner to allow discharge of stormwater to the street or toward abutting properties. The contractor shall contact the Conservation Agent for review of the excavation of any subsurface infiltration to meet the standards for installation 2' above the estimated seasonal high groundwater.

6. All site work shall be in compliance with the Architectural Plans and Plan as conditioned by this Decision, provided, however, that the Building Commissioner may approve minor changes in the course of construction that are of such a nature as are usually approved as "field changes" that do not require further review by the Board. The dimensions shall not be changed without Board approval, except that minor changes in dimension that do not increase the size of the

AFDU or encroach on any required setback may be allowed by the Building Commissioner as field changes.

7. There shall be no tracking of construction materials onto any public way. In the event construction debris is carried onto a public way, the applicant shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve hours of its occurrence.

8. The owner must confirm in writing prior to issuance of an occupancy permit that there is no connection whether direct or indirect to the Town storm water system from the site, including any drainage sump pump, perimeter drains, roof drains, or any other source.

9. The applicant shall comply with all Department of Public Works (DPW) regulations and requirements for any street opening permits, utility connections, or other work within DPW jurisdiction. DPW has stated it will require separate connections from the existing water and sewer connections for the AFDU building for water and sewer, the applicant should contact DPW for requirements.

10. This special permit shall be recorded with the Registry of Deeds prior to issuance of an occupancy permit for the accessory family dwelling unit.

11. Upon transfer of ownership of the property, if the new owners desire to continue to exercise the special permit, they must, within thirty days of the conveyance, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences, and that the accessory family dwelling unit is to be occupied by one of parties specified in Section 8.2.C. 6. b. of the Zoning Bylaw.

12. The owner of the property shall provide a bi-annual certification to the Building Commissioner verifying that the unit not occupied by the owner is occupied by one of the parties specified in Section 8.2.C. 6. b. of the Zoning Bylaw, or that the space is being used for another lawfully allowed use pursuant to the Zoning Bylaw.

13. The AFDU building shall be slab on grade as shown on the Architectural Plans, no basement.

14. The AFDU is close to the 15 foot side yard setback. The applicant is directed to Medway General Bylaws Article 31, Tree Preservation Bylaw. Any removal of mature trees within any zoning setback area may require a Tree Removal Permit Application from the Conservation Commission.

15. The location of the proposed AFDU shall be staked prior to issuance of a building permit to ensure no encroachment on the required side yard setback.

15. Stockpiles shall be surrounded by erosion controls.

V. INDEX OF DOCUMENTS

A. The application included the following information that was provided to the Board at the time the application was filed:

1. Application dated June 11, 2024.
2. Plans entitled “Design Development 10 Maple Street” prepared by SAH Design, LLC, dated, May 23, 2024, 4 pages (herein the “Architectural Plans”)
3. Plan entitled “Proposed Dwelling Plot Plan of Land in Medway, Mass.”, prepared by Real Map Info, LLC, dated June 9, 2024 (herein the “Plan”)
4. Photo of 10 Maple Street

B. Other documents received by the Board:

1. Email from Derek Kwok, Board of Health Director, dated June 24, 2024
2. Email from Bridget Graziano, Conservation Agent, dated June 25, 2024
3. Email from Bridget Graziano, Conservation, dated July 8, 2024
4. Email from Barry Smith, Water/Sewer Superintendent, dated July 8, 2024
5. Email from Jeremy Thompson, PEDB Coordinator, dated July 9, 2024

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, the Zoning Board of Appeals hereby GRANTS the Applicants, Amanda and Taylor Costa, a **Special Permit for an Accessory Family Dwelling Unit (AFDU)** under G.L. c. 40A §9, and Zoning Bylaw Section 8.2 subject to the Plans and the CONDITIONS contained in this decision, see copy of Plan attached.

Member:	Vote:	Signature:
Brian White, Chair	Aye	_____
Gibb Phenegar, Vice-Chair	Aye	_____
Joe Barresi, Member	Aye	_____
Tom Emero, Member	Aye	_____
Adam Kaufman, Associate Member	Aye	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this special permit on the terms herein set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in General Laws, chapter 40A, section 15.

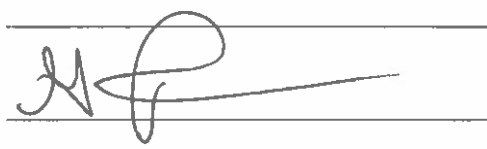
Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within twenty days after the filing of this notice in the office of the Medway Town Clerk.

In accordance with General Laws chapter 40A, section 11, no special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed within said twenty day period or the appeal has been filed within such time. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision and notification by the Applicant of the recording, shall be furnished to the Board.

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