



Town of Medway
ZONING BOARD OF APPEALS
155 Village Street, Medway, MA 02053

Eric Arbeene, Chair
Brian White, Vice Chair
Carol Gould, Clerk
Bridgette Kelly, Member
Rori Stumpf, Member
Christina Oster, Assoc. Memb

**DECISION
VARIANCE
14 & 16R FRANKLIN STREET**

Date Application Filed: May 14, 2018

Applicant(s): Marguerite Mele ("the Applicant")
203 Main Street,
Medway, MA 02053

Location of Property: The Property is located at 14 and 16R Franklin Street (Assessor Parcel IDs: 57-078 and 57-079).

Approval Requested: Variance from Section 6.1 Table 2 of the Zoning Bylaw to Bylaw to allow for a lot with 89.31 feet of frontage where 150 feet is required.

Members Participating: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Rori Stumpf, and Christina Oster

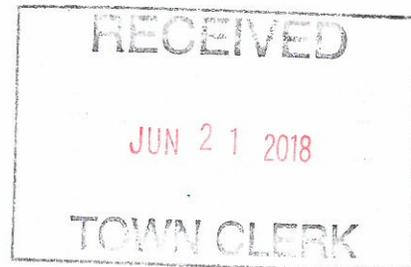
Members Voting: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Rori Stumpf, and Christina Oster

Hearing Opened: June 20, 2018

Hearing Closed: June 20, 2018

Date of Decision: June 20, 2018

Decision: Granted



*20 Day Appeal
July 11, 2018*



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I. PROCEDURAL HISTORY

1. On May 14, 2018, the Applicant's Representative filed an applicant for a variance from Section 6.1 Table 2 of the Zoning Bylaw to Bylaw to allow for a lot with 89.31 feet of frontage where 150 feet is required. The applicant proposed to merge two existing lots, 57-078 and 57-079, which had 44.66 feet of frontage and 44.65 feet of frontage, respectively, to have the 89.31 feet of total frontage.
2. Notice of the public hearing was published in the Milford Daily News on June 6, 2018 and June 13, 2018, and notice sent by mail to all interested parties and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on June 20, 2018. The Board closed the public hearing the same evening.
4. The Property is located in the 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 s.f. and the minimum frontage requirement is 150 feet.
5. The Applicant was represented by Stephen Kenney of Kenney & Kenney, 181 Village Street, Medway, MA 02053.
6. The Board notified Town departments, boards and committees of this application. The Board received comments from Conservation Agent Bridget Graziano.
7. 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. TESTIMONY

At the June 20, 2018 meeting, the hearing was opened by the Board. The Applicant's representative, Stephen Kenney, was present. Mr. Kenney provided an overview of the request. The applicant had originally been granted two frontage variances for 14 and 16R Franklin Street ("the parcels") in 1992, but the applicant had never pulled permits or constructed any buildings and the variance lapsed. In 2013, the applicant returned to the Board for a similar variance request, but the request was denied. The applicant was now requesting a lesser variance, where the applicant had proposed to merge the two previous parcels into one larger parcel which would still have less than the required frontage, but would not require as significant a variance.

The shape of the parcels are narrow at their frontages and widens with obscure angles towards their rears. The parcels have more than 50% uplands and meets the lots shape factor. The

parcels are substantially differently shaped than other lots in the zoning district. The parcels have more than adequate area and the setbacks shall be met.

The applicant suggested to maintain some of the existing vegetation and place the location of the single family residence in a way to create the least impact on abutters.

Any owner of the parcels would incur a hardship, where without a frontage variance, the parcels are essentially undevelopable.

Paul Santosusso, 2 Franklin Creek Lane, spoke in support of the request.

All of the Board members agreed that granting the request was logical and met the variance criteria.

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 evidence and testimony presented at the public hearing and comments submitted by residents placed in the public record during the course of the hearings.

A. Variance Criteria

1. *Circumstances relating to the shape, topography, or soil conditions of the subject property, which do not generally affect other land in the zoning district.*

14 and 16R Franklin Street (“the parcels”) have a unique “hammerhead” shape, that is, the lots are narrow along their frontage but continue to widen towards their rears. Both parcels have more than adequate area for the AR-II Zoning District and are otherwise conforming to the zoning district’s dimensional requirements.

2. *Substantial hardship caused by the circumstances from Criteria A.1 when the Zoning Bylaw is literally enforced.*

Without a frontage variance, the parcels are essentially undevelopable lots. Any owner of the parcels would incur financial hardship, as the lots would be assessed and taxed, but could not be developed or enjoyed.

3. *Why/how the grant of relief would not nullify or derogate from the intent of the Zoning Bylaw.*

The grant of relief would not nullify or derogate from the intent of the Zoning Bylaw as the parcels have more than adequate area for a single family home, both

merged and separately. The new merged parcel will be significantly larger than other parcels in the zoning district. The new merged parcel shall meet all other dimensional requirements. Where the parcels are lacking in frontage, the applicant has provided sufficient reasons that construction of a single family on a parcel of more than adequate area would not nullify or derogate from the intent of the Zoning Bylaw.

The Applicant's representative has provided documentation in the Variance application form submitted with this application, and as explained during the hearing, to meet all of the required Variance Criteria.

IV. CONDITIONS OF APPROVAL

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board **GRANTS** the Applicant, Marguerite Mele, a **VARIANCE** from Section 6.1 Table 2 of the Zoning Bylaw to Bylaw to allow for a lot with 89.31 feet of frontage where 150 feet is required, subject to the Plan of Land for Map 57 Lot 079 and Map 57 Lot 078, also known as 14 and 16R Franklin Street, in Medway, MA, dated April 9, 2018, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA which joins the two parcels into one larger parcel, is submitted to the Planning and Economic Development Board for ANR approval and endorsement and then recorded with the Registry of Deeds.

1. This variance is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the variance 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.

Any work or use that deviates from this Decision shall be a violation of the *Medway Zoning Bylaw*.

2. 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. If no request for extension is filed and approved, the variance shall lapse one year from the date of Decision, unless action is taken, or as may be otherwise specified herein, and may be reestablished only after a new filing, hearing, and decision.

V. INDEX OF DOCUMENTS

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

1. Variance Decision for 14 and 16R Franklin Street dated May 6, 1992

2. Variance Decision for 14 and 16R Franklin Street dated November 20, 2013
3. Plan of Land of Lot 1, 2, and 3 on Franklin Street, in Medway, MA, dated 9/28/90 and revised 5/1/91 and 5/6/92, prepared by DeSimone Survey Service, Inc. of 89 Main Street, Medway, MA
4. Plan of Land for Map 57 Lot 079 and Map 57 Lot 078, also known as 14 and 16R Franklin Street, in Medway, MA, dated April 9, 2018, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA

B. During the course of the review, the following materials were submitted to the Board by Town Departments/Boards:

1. Comments: Bridget Graziano, May 31, 2018

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms hereinafter 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 G.L. c. 40A §15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty days (20) after the filing of this notice in the Office of the Medway Town Clerk.

In accordance with MGL c. 40A, Section 11, no variance or 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 that any duly filed appeal has been dismissed or denied. The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

The next page provides the signatures of the Board.

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, on a motion made by Brian White and seconded by Rori Stumpf, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Marguerite Mele, a **VARIANCE** from Section 6.1 Table 2 of the Zoning Bylaw to Bylaw to allow for a lot with 89.31 feet of frontage where 150 feet is required, subject to the Plan of Land for Map 57 Lot 079 and Map 57 Lot 078, also known as 14 and 16R Franklin Street, in Medway, MA, dated April 9, 2018, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA which joins the two parcels into one larger parcel, is submitted to the Planning and Economic Development Board for ANR approval and endorsement and then recorded with the Registry of Deeds.

Member:	Vote:	Signature:
Eric Arbeene	<u>YES</u>	_____
Brian White	<u>YES</u>	_____
Carol Gould	<u>YES</u>	_____
Rori Stumpf	<u>YES</u>	
Christina Oster	<u>YES</u>	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this Variance on the terms hereinafter 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 G.L. c. 40A §15.

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