

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

Rori Stumpf, Chair
Brian White, Vice Chair
Gibb Phenegar, Clerk
Christina Oster, Member
Carol Gould, Member

DECISION
SPECIAL PERMIT
19 BROAD ACRES FARM ROAD

Date Application Filed: June 10, 2019

Applicant(s): Gary Legee ("the Applicant")
19 Broad Acres Farm Road
Medway, MA 02053

Location of Property: 19 Broad Acres Farm Road (Assessor Parcel ID: 19-036).

Approval Requested: Special Permit under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit ("AFDU").

Members Participating: Rori Stumpf (Chair), Brian White (Vice Chair), Carol Gould (Clerk), Gibb Phenegar (Member)

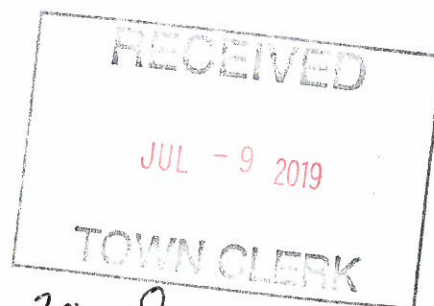
Members Voting: Rori Stumpf (Chair), Brian White (Vice Chair), Carol Gould (Clerk), Gibb Phenegar (Member)

Hearing Opened: July 3, 2019

Hearing Closed: July 3, 2019

Date of Decision: July 3, 2019

Decision: GRANTED



*20 Day Appeal
July 29, 2019*



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I. PROCEDURAL HISTORY

1. On June 10, 2019, the Applicant filed an application for a special permit under Section 8.2 of the Medway Zoning Bylaw for a special permit for an Accessory Family Dwelling Unit.
2. Notice of the public hearing was published in the Milford Daily News on June 19, 2019, and June 26, 2019 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 July 3, 2019. The hearing was closed the same evening.
4. The Property is located in the Agricultural Residential I (AR-I) Zoning District. The front setback requirement is 35 feet and the side and rear setback requirements are 15 feet. The minimum lot area requirement is 44,000 sq. ft. and the minimum frontage requirement is 180 feet. Accessory Family Dwelling Units are allowed by special permit.
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. TESTIMONY

At the July 3, 2019 meeting, the hearing was opened by the Board. Gary and Denise Legee, owners of the property, were present and discussed their AFDU special permit application. The plans show that the proposed addition to the house would consist of two distinct parts. First, there will be a 562 gross sq. ft. addition to the house that will include a one car garage, laundry room, closet, and hallway. This addition will be accessible to both the main house and the AFDU. The second part of the addition is the AFDU, which is 780 gross sq. ft., and will be located on the other side of the first addition. They explained that the AFDU will be for Denise's mother.

Todd Allen, contractor from HIS Corporation of Medway, MA was present and talked about the structure and where the addition would be going on the existing home.

Mr. Phenegar said he drove by the home and stated that what is being proposed would not be out of character for the neighborhood; Mr. Legee stated that there is another AFDU in the neighborhood as well.

Mr. Stumpf reminded him that the town performs reviews every two years on the AFDU to ensure it is being used correctly.

Mr. Stumpf then reviewed the criteria in the zoning bylaw for an AFDU special permit and stated that he believes that all criteria for a AFDU special permit are met for this application and the Board agreed to grant the special permit.

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. The Board first addressed the criteria for an AFDU:

A. Section 8.2 Accessory Family Dwelling Unit Criteria

1. *An accessory family dwelling unit shall be located within: ...*

- b. An addition to a detached single-family dwelling (principal dwelling unit)....

The AFDU will be an addition to a detached single family dwelling.

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

The AFDU will be the only AFDU associated with this property.

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.

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

This AFDU will be 780 sq. feet of gross floor area.

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.*

The proposed AFDU has an off street parking space in keeping with the residential character of the neighborhood.

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, Gary and Denise Legee, live in the existing single family home 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 AFDU will be occupied by Denise Legee’s mother.

- 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 proposed AFDU is located to the rear and side of the existing home and will maintain the appearance of a single-family dwelling.

By a motion made by Brian White, seconded by Gibb Phenegar, the Board finds that the Applicant has met all of the required Accessory Family Dwelling Unit decision criteria with a unanimous vote of 4-0.

The Board then reviewed the general criteria for a special permit under Section 3.4:

B. Section 3.4 Special Permit Decision Criteria

- 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.*

By a motion made by Brian White, seconded by Gibb Phenegar, the Board finds that the Applicant has met all of the required special permit criteria under Section 3.4, passed with a unanimous vote of 4-0.

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, Gary Legee, a **SPECIAL PERMIT** under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit, subject to the conditions herein.

1. Smoke detectors 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.
4. 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 special permit shall lapse two years 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. See Section 3.4.E of the Zoning Bylaw.
5. The Applicant shall install roof drains on the new dwelling unit and existing home (if the existing home does not already have them) to be infiltrated into the ground using a type of infiltration unit, such as but not limited to dry well, subsurface infiltrators, etc. Gutters and downspouts are not allowed to be placed in a manner to allow discharge of stormwater to the street.
6. The AFDU shall be built in compliance with the documents submitted to the Board as

listed in Section V of this Decision, provided, however, that the Building Commissioner may approve minor changes in the course of construction that do not affect the wheelchair adaptability and 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. The 562 sq. ft. addition shown on the plans shall remain accessible to the main house for so long as the AFDU is in existence.

Motion to approve conditions 1-6 as presented was made by Brian White and seconded by Gibb Phenegar passed with a unanimous 4-0.

Motion to allow any one member of the Board to sign the decision made by Brian White seconded by Gibb Phenegar passed with a unanimous vote of 4-0

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. “Proposed Addition Plan of Land in Medway, MA” for 19 Broad Acres Farm Road, Medway MA 02053 dated June 1, 2019 prepared by Colonial Engineering, Inc. 11 Awl Street, Medway, MA 02053.
2. “Legee Residential Addition” Plans for 19 Broad Acres Farm Road, Medway, MA 02053 dated June 10, 2019 prepared by Alex Siekierski, Assoc. AIA, 5 sheets.
3. “#19 Plot Plan of Land in Medway, MA” dated October 30, 1999 prepared by DeSimone & Associates, 33 Cottage Street, Medway, MA.

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

1. Email from Chief Lynch, Fire Department on June 11, 2019.
2. Email from David D’Amico, Director, Department of Public Services on June 11, 2019.
3. Email from Bridget Graziano, Conservation Agent on June 11, 2019.
4. Email from Joanne Russo, Treasurer on June 11, 2019.

VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Brian White and seconded by Gibb Phenegar, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Gary Legee, a **SPECIAL PERMIT** under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit, subject to the conditions herein.

Member:	Vote:	Signature:
Rori Stumpf	Yes	_____
Brian White	Yes	_____
Carol Gould	Yes	_____
Christina Oster	Absent	_____
Gibb Phenegar	Yes	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this special permit 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 after the filing of this notice in the office of the Medway Town Clerk.

In accordance with MGL c. 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 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.

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