



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  
Tom Emero, Member  
Carol Gould, Associate Member  
Brian Cowan, Associate Member

**DECISION  
SPECIAL PERMIT  
1 ROLLING LANE**

**Date Application Filed:** July 24, 2019

**Applicant(s):** William and Sheri Tagliaferri ("the Applicants")  
1 Rolling Lane  
Medway, MA 02053

**Location of Property:** 1 Rolling Lane (Assessor Parcel ID: 58-028).

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

**Members Participating:** Rori Stumpf (Chair), Gibb Phenegar (Clerk), Tom Emero (Member), Brian Cowan (Associate Member)

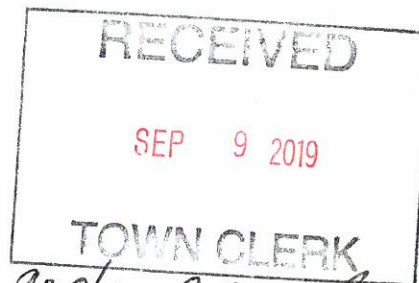
**Members Voting:** Rori Stumpf (Chair), Gibb Phenegar (Clerk), Tom Emero (Member), Brian Cowan (Associate Member)

**Hearing Opened:** September 4, 2019

**Hearing Closed:** September 4, 2019

**Date of Decision:** September 4, 2019

**Decision:** GRANTED





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## **I. PROCEDURAL HISTORY**

1. On June 24, 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 August 21, 2019, and August 28, 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 September 4, 2019. The Board closed the hearing the same night.
4. The Property is located in the Village Residential (VR) Zoning District. The front setback requirement is 20 feet and the side and rear setback requirements are 10 feet. The minimum lot area requirement is 22,500 sq. ft. and the minimum frontage requirement is 150 feet. The lot is conforming except that it has only 56.17 feet of frontage. 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.
7. The Chair designated Associate Board member Brian Cowan to sit on this application due to the absence of a regular member.

## **II. TESTIMONY**

At the September 4, 2019 meeting, the hearing was opened. Mr. Tagliaferri was present and provided an overview of his application. He stated that when he purchased the home in 2005 the accessory family dwelling unit was already existing in the home, where his mother in law currently resides. Mr. Stumpf asked if there was a permit pulled for the unit, Mr. Tagliaferri stated he did not know. After a brief discussion amongst the Board regarding the criteria for the special permit as well as AFDU criteria they decided to grant the Applicant 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 a special permit:

### **A. 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 Gibb Phenegar, seconded by Tom Emero, the Board finds that the Applicant has met all of the applicable special permit criteria under Section 3.4 passed by a unanimous vote of 4-0.**

The Board next reviewed the criteria for an AFDU under Section 8.2:

#### **B. Section 8.2 Accessory Family Dwelling Unit Criteria**

1. *An accessory family dwelling unit shall be located within: ...*
  - a. *a detached single-family dwelling (principal dwelling unit)....*  
**The AFDU currently exists in the lower level of the existing home.**
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 existing AFDU has only one bedroom.**
4. *An accessory family dwelling unit shall not exceed 800 sq. ft. of gross floor area...:*  
**This AFDU is 542 sq. 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.*

**The existing 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, William and Sheri Tagliaferri, 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 Sheri Tagliaferri'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 existing AFDU is located on the lower level of the existing home.**

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

## **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 Applicants, William and Sheri Tagliaferri 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. 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. The AFDU shall be maintained in compliance with the documents submitted to the Board as listed in Section V of this Decision.

**Motion to approve conditions as presented was made by Gibb Phenegar, seconded by Tom Emero, passed by a unanimous vote of 4-0.**

**Motion to allow any one member of the Board to sign the decision made by Gibb Phenegar, seconded by Tom Emero, passed by a unanimous vote of 4-0.**

#### **IV. 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. "Quitclaim Deed" Book 36938 Page 114 dated July 3, 2019 for One Rolling Lane Medway, MA
2. Hand drawn floor plan (herein "Floor Plan")
3. "Mortgage Inspection Plan" for 1 Rolling Lane Medway, MA prepared by Walsh & Sweeney, LLP, 140 Wood Road, Suite 103, Braintree, MA 02184

**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, Medway Fire Dept. on August 6, 2019

## VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Gibb Phenegar and seconded by Tom Emero, the Zoning Board of Appeals hereby **GRANTS** the Applicants, William and Sheri Tagliaferri, 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   | _____      |
| Gibb Phenegar | YES   | _____      |
| Tom Emero     | YES   | _____      |
| Brian Cowan   | YES   | _____      |

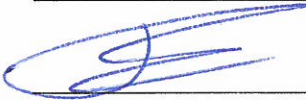
The Board and the Applicant have complied with all statutory requirements for the issuance of this special permit on the terms hereinafter set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided 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 G.L. c. 40A, §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 an appeal has been filed. 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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| Member:       | Vote: | Signature:   |
|---------------|-------|--|
| Rori Stumpf   | YES   | _____  |
| Gibb Phenegar | YES   | _____  |
| Tom Emero     | YES   |  _____ |
| Brian Cowan   | YES   | _____  |

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