



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 WILD TURKEY RUN**

Date Application Filed: August 8, 2019

Applicant(s): Joanne Toso ("the Applicant")
1 Wild Turkey Run
Medway, MA 02053

Location of Property: 1 Wild Turkey Run (Assessor Parcel ID: 38-003).

Approval Requested: Special Permit under Section 5.4 Table 1 of the Zoning Bylaw to allow use as a Kennel for four dogs, pets only, on the property.

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

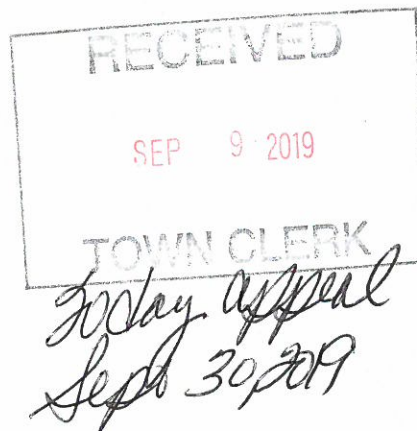
Members Voting: Rori Stumpf (Chair), Gibb Phenegar (Clerk), Tom Emero (Member), Brian Cowan (Associate Member)

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 August 8, 2019, the Applicant filed an application for a special permit under Section 5.4 Table 1 of the Zoning Bylaw to allow use as a Kennel for four dogs, pets only, on the property.
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 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. The lot meets the minimum lot area requirement, and is conforming according to the application.
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 public hearing, the Applicant, Joanne Toso, was present with her representative, Attorney Jeremy Cohen. Attorney Cohen submitted a number of documents to the Board, including dog licenses, insurance information, and fencing plans. He gave an overview of the Applicant, her dogs, and her interactions with Medway Animal Control Officer Brenda Hamelin. He discussed that the Applicant would like to have four dogs on her property as pets, currently she has three dogs that are properly licensed and vaccinated. Ms. Hamelin also discussed the history of the dogs currently on the property and her interactions with the Applicant.

There was a discussion among the Board, attorney Cohen, and Ms. Hamelin about acceptable potential conditions to be placed on the special permit. The Board reviewed the documents submitted by the Applicant regarding proposed fencing. It was agreed that the fencing should include the "black welded wire" to prevent the dogs from digging under the fence to escape, and that the fence should be six feet high. The Applicant stated that she is in the process of adding a screen door to the front door of the home to prevent the dogs from running loose. Attorney Cohen explained the area of the yard that will be fenced for the dogs, and drew an outline of the area on the property plot plan. After further discussion and review of the special permit criteria, the Board decided to grant the special permit to the Applicant with conditions.

III. FINDINGS

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

A. Section 3.4 Special Permit Decision Criteria

1. *The proposed site is an appropriate location for the proposed use.*

The proposed site is an appropriate location due to having adequate square footage on the lot and will have a fenced area for the dogs.

2. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*

The applicant will be putting in a fenced area for the dogs on the property. The fence will be a 6-foot fence and the dogs will not be able to dig under it to get out. The applicant will also be adding a screen door to front door of the house for added security.

3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.*

Provided that the animals are cared for and appropriately vaccinated with the proposed facilities it would not create a hazard.

4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area.*

This criterion does not apply.

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.*

The waste will be removed appropriately.

6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.*

The proposed use will not adversely affect the surrounding neighborhood.

7. *The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.*

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.*

This criterion does not apply.

9. *The proposed use will not be detrimental to the public good.*

If the animals are well cared for, vaccinated and contained 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 required special permit decision criteria under Section 5.4 with 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 Applicant, Joanne Toso, a **SPECIAL PERMIT** under Section 5.4 Table to use as a Kennel for four dogs, pets only, on the property, subject to the conditions herein.

1. 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.
2. Any work or use that deviates from this Decision may be a violation of the Medway Zoning Bylaw.
3. 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.
4. The Applicant shall only have up to four dogs on the property at any time, only as personal pets. There shall be no commercial operations associated with this kennel special permit. All dogs on the property shall be owned by the Applicant and properly registered with the office of the Town Clerk in Medway.
5. The Applicant shall install a screen door on the front door of the home as agreed to at the hearing.
6. The dogs shall be up to date with vaccinations on a yearly basis.
7. There shall be six-foot high fencing, including wire fencing to prevent dogs from digging under the fence, installed on the property, in the area shown by the hand drawing on the plot plan. All waste shall be collected in a timely fashion and disposed of properly.
8. The Applicant shall only have 3 dogs on the property until the fencing has been installed.

By a motion made by Gibb Phenegar, seconded by Tom Emero, the Board approved the conditions as presented, passed with a unanimous vote of 4-0.

Motion to allow any one member of the Board to sign the decision by Gibb Phenegar, seconded by Tom Emero, passed with 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. “Plan of Land in Medway, MA Owner: John Ryder Ohlson Circle Medway, MA 02053”, dated May 20, 2003, prepared by DeSimone & Associates 11 Awl Street Medway, MA 02053
2. Letter in favor dated August 29, 2019 from Geoff Nolin.
3. “Applicant’s Submission” packet presented at the Public Hearing on September 4, 2019 from Attorney Jeremy Cohen.
4. Email from Joanne Toso to Medway Animal Control Officer Brenda Hamelin on November 30, 2018.

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 9, 2019
2. Email from Bridget Graziano, Medway Conservation Agent on August 12, 2019
3. Email from David D’Amico, Medway DPW Director on August 12, 2019

[Remainder of page intentionally left blank; vote of the board follows on next page]

VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Gibb Phenegar, seconded by Tom Emero, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Joanne Toso, a **SPECIAL PERMIT** under Section 5.4 Table 1 of the Zoning Bylaw to allow use as a Kennel for four dogs, pets only, on the property, subject to the conditions herein.

Member:	Vote:	Signature:
Rori Stumpf	YES	_____
Gibb Phenegar	YES	_____
Tom Emero	YES	_____
Brian Cowan	YES	_____

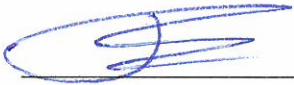
The Board and the Applicant have complied with all statutory requirements for the issuance of this special permit on the terms hereinafter set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided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