

Board Members
Rori Stumpf, Chairman
Brian White, Vice Chair
Gibb Phenegar, Clerk
Christina Oster, Member
Tom Emero, Member
Carol Gould, Associate Member



Medway Town Hall
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Medway, MA 02053
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
SPECIAL PERMIT
24 BROAD ACRES FARM ROAD

Applicant(s): Lori Mezoff
24 Broad Acres Farm Road
Medway, MA 02053

Location of Property: 24 Broad Acres Farm Road (Assessors' Parcel ID: 18-006)

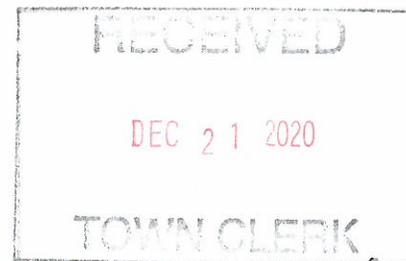
Approval Requested: The application is for the issuance of a **special permit** under Section 8.2 of the Zoning Bylaw to construct an Accessory Family Dwelling Unit ("AFDU") of more than 800 sq. ft. as an addition to the existing home on the property.

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

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

Date of Decision: December 16, 2020

Decision: **GRANTED WITH CONDITIONS**



*20 day appeal
date
Jan 11, 2021*

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I. PROCEDURAL HISTORY

1. On November 16, 2020, the Applicant filed an application for a special permit under Section 8.2 of the Medway Zoning Bylaw for a special permit to construct an Accessory Family Dwelling Unit (“AFDU”) of more than 800 sq. ft. as an addition to the existing home on the property.
2. Notice of the public hearing was published in the Milford Daily News on December 2, 2020 and December 9, 2020 and notice sent by mail to all interested parties and posted in Town Hall as required by G.L. c. 40A, §11. The notices included instructions for participating remotely in the public hearing, pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor’s Orders imposing strict limitations on the number of people that may gather in one place.
3. The public hearing was opened on December 16, 2020 and 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. SUMMARY OF TESTIMONY

The public hearing, pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor’s Orders imposing strict limitations on the number of people that may gather in one place, was held via Zoom platform and was also broadcast live on Medway Cable Access. All persons participated remotely.

The applicant, Lori Mezoff, was present and explained that the AFDU will be for her parents. She is requesting two bedrooms due to her parents’ medical reasons. Todd Allen of HIS Corporation stated that there is a well located in the back of the house and that is the reason they have had to design it as presented. They are requesting over 800 sq. feet to make it accessible and have tried to make it look like a single family. The proposed AFDU does not create any non-conformities to the home or lot. The space above the first floor will just be attic space. Mr. Allen stated they looked at trying to slide the addition to the right, but the current design is right up to the existing kitchen window and if it is moved any more it will obstruct the main kitchen window. He also stated the basement space is needed to connect utilities. The total square footage is 1136 square feet of livable space. They are trying to keep the main floor in the AFDU lower than the main floor of the existing house because of wheelchair accessibility. Mr. Allen stated it does not need to be ADA compliant as it is residential and not commercial, but they are making accommodations in the house for wheelchair access.

The Board reviewed and discussed each of the AFDU criteria. The Board collectively agreed it would be appropriate to allow the applicant to exceed 800 square feet and to have a second bedroom for the reasons stated. Mr. Stumpf inquired about the total square footage of the home including the AFDU, Ms. Mezoff stated that her house is one of the smaller ones in the neighborhood at around 4100 square feet and this would not look out of character.

Mr. Stumpf and the members then reviewed and discussed the special permit criteria. The members agreed that the applicant has met all special permit criteria.

Ms. Saint Andre went over the boiler plate conditions for an AFDU which consists of 10 conditions. The Board collectively decided to impose these conditions.

III. FINDINGS

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A 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 each of 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 the rear left of the existing 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 two bedrooms, and therefore requires authorization under Section 8.2.C.8.
4. An accessory family dwelling unit shall not exceed 800 sq. ft. of gross floor area unless: ...
This AFDU footprint will be approximately 1,138 square feet and will also include an unfinished basement of the similar square footage, and therefore requires authorization under Section 8.2.C.8.
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 will have a one-car garage 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, ...
The applicant owns and resides in the existing home.
 - 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; ...
The AFDU will be occupied by the Ms. Mezoff's parents.

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 AFDU addition will match the existing home in form and materials, and access to the unit will be from the middle of the existing garage and addition.

8. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility or a chronic medical condition, the Board of Appeals may allow reasonable deviations from the Basic Requirements where necessary to install features in the necessary family dwelling unit to facilitate the care of, and access and mobility for, disabled and handicapped individuals and persons with limited mobility or a chronic medical condition. This may include, but is not limited to, authorizing a second bedroom in the accessory family dwelling unit.

The AFDU will need a second bedroom and additional space to accommodate the applicant's parents who have chronic and progressing medical issues.

The Board found that the Applicant has met all of the required Accessory Family Dwelling Unit decision criteria.

The Board approved the AFDU to include a second bedroom and to allow the AFDU to be more than 800 square feet in accordance with the plans submitted.

The Board then reviewed each of 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.
The property is zoned to allow for this use. The addition will be on the back of the existing house meeting all setback requirements.
2. Adequate and appropriate facilities will be provided for the operation of the proposed use.
The AFDU will have appropriate utilities.
3. The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.
The AFDU will not create a hazard.
4. The proposed use will not cause undue traffic congestion or conflicts in the immediate area.
The AFDU will create minimal additional traffic.
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 AFDU is an addition to an existing home that will blend into the neighborhood.
6. The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.
The AFDU is an addition that will blend into the neighborhood.
7. The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.
The zoning by-law allows AFDU units in this district.
8. The proposed use is consistent with the goals of the Medway Master Plan.
The Master Plan encourages a mix of housing types.
9. The proposed use will not be detrimental to the public good.

The AFDU is an addition that will blend into the neighborhood.

The Board found that the Applicant has met all of the required special permit criteria under Section 3.4.

IV. CONDITIONS OF APPROVAL

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. 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 XX 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

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 install a dry well or other approved stormwater system for the proposed addition which infiltrates all roof run off into the ground. Any and all gutters and downspouts shall not be placed in a manner to allow discharge of stormwater to the street or toward abutting properties.

5. The proposed structure 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 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.

6. There shall be no tracking of construction materials onto any public way. Sweeping of roadways adjacent to the site shall be done as needed to ensure that any loose gravel and dirt is removed from the roadways. 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.
7. Owner must confirm in writing that there is no connection to the Town's stormwater system, direct or indirect, such as sump pumps, perimeter drains, roof drains, or site drainage.
8. This special permit shall be recorded with the Registry of Deeds prior to issuance of a building permit for the accessory family dwelling unit.
9. 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.
10. 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.

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. "Plan of Land in Medway, MA" dated November 2, 2020, Owner: Lori Michelle Mezoff, 24 Broad Acres Farm Road, Medway, MA, prepared by Colonial Engineering Inc., 11 Awl Street, Medway, MA
2. "24 Broad Acres Farm Road" Medway, MA, dated October 29, 2020, prepared by H.I.S. (contains 8 pages)
3. Email with 10 photos of the current home and location of proposed AFDU from Lori Mezoff on November 24, 2020.

B. The following documents were submitted by Town residents:

1. Abutter support letter via Email from Melissa Piscia of 23 Broad Acres Farm Road, Medway, MA on December 7, 2020
2. Abutter support letter via Email from Joanne Brodeur of 22 Broad Acres Farm Road, Medway, MA on December 7, 2020
3. Abutter support letter via Email from Greg Panza of 26 Broad Acres Farm Road, Medway, MA on December 10, 2020

4. Abutter opposition letter via Email from Laura Guisti-McSweeney of 20 Broad Acres Farm Road, Medway, MA

C. During the course of the review, the following materials were submitted to the Board by Town departments and boards:

1. Email from Joanne Russo, Medway Treasurer on November 24, 2020
2. Email from Mike Fasolino, Medway Deputy Fire Chief on November 24, 2020
3. Email from Bridget Graziano, Medway Conservation Agent on November 30, 2020

VI. VOTE OF THE BOARD

Based upon the findings of the Board and testimony and information received into the record during the public hearing process, the Board hereby **GRANTS** the Applicant, Lori Mezzoff, a **SPECIAL PERMIT** under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit, including approval of a second bedroom and square footage exceeding 800 square feet, to be constructed in accordance with the plans and application submitted to the Board, and subject to the conditions herein.

Member:	Vote:	Signature:
Rori Stumpf	AYE	_____
Brian White	AYE	_____
Gibb Phenegar	AYE	_____
Tom Emero	AYE	_____
Carol Gould	AYE	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this special permit on the terms 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 Massachusetts 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, §17, which shall be filed within twenty days after the filing of this decision 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 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed 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 certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

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