

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member



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

RECEIVED TOWN CLERK
JAN 23 '24 4:10

DECISION
SPECIAL PERMIT
25 HOLLISTON STREET

Applicant(s): Jason and Sarah Ballard

Location of Property: 25 Holliston Street (Assessors' Parcel ID: 60-008).

Approval Requested: The application is for the issuance of a special permit under Section 5.5.C requesting to raze an existing nonconforming single-family dwelling that was destroyed by fire and construct a new single-family dwelling.

Members Participating: Brian White (Chair), Gibb Phenegar (Vice Chair), Christina Oster (Clerk), Joe Barresi (Member), Tom Emero (Member)

Members Voting: Brian White (Chair), Gibb Phenegar (Vice Chair), Christina Oster (Clerk), Joe Barresi (Member), Tom Emero (Member)

Date of Decision: January 17, 2024

Decision: GRANTED WITH CONDITIONS

I. PROCEDURAL HISTORY

1. On December 20, 2023, the Applicant filed for the issuance of a **special permit** under Section 5.5 D requesting to raze an existing nonconforming single-family dwelling that was destroyed by fire and construct a new single-family dwelling.
2. Notice of the public hearing was published in the Milford Daily News on January 3, 2024 and January 10, 2024 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 January 17, 2024. The hearing was closed that same evening.

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4. The Property is located in the Agricultural Residential II (AR-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 square feet and the minimum lot frontage requirement is 150 feet.
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. EVIDENCE

Kevin Grady of Grady Consulting Engineering was present at the public hearing on behalf of the applicant. (The applicant was also present via Zoom.) The special permit application is to raze the pre-existing nonconforming home that was destroyed by fire and construct a new single-family home in its place. The lot is nonconforming as to lot size and frontage, and the existing structure encroaches on the front and side yard setbacks. Information from the applicant is that the existing house was built around 1850, therefore it pre-dates the Zoning Bylaw and is a legally pre-existing, nonconforming structure. Mr. Grady presented an updated Site Plan to the Board at the public hearing, which addressed certain concerns from the Conservation Commission but did not affect the placement of the proposed new single-family home. The proposed new single-family dwelling will be moving back 12 feet further from the front lot line, and will also be conforming to the side lot line; thus, it will be less nonconforming than the existing structure. The updated plan also shows the stormwater management system, which will be subject to Conservation Commission approval. No tree removal is planned, and the house will be on Town water and sewer. The driveway curb cut will remain the same.

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.

1. The Board found that the applicant has established that the existing single family house on the lot is a legally pre-existing, nonconforming structure under chapter 40A, section 6. It has existed since before zoning was enacted by the Town. The existing structure is nonconforming in that it encroaches on the side and front setbacks, and the lot does not have the required minimum square footage or frontage required by the Zoning Bylaw.

Section 5.5 Special Permit Decision Criteria

The standard for special permit approval is whether the proposed new structure will be substantially more detrimental to the neighborhood. The proposed new dwelling will be more conforming than the existing structure. The current structure is 3.3 feet from the front lot line, the proposed structure will be 15.8 feet from the front lot line. The existing structure is 12.4 feet

from the side lot line, the proposed structure will be 15.4 feet from the side lot line, which will bring it into conformance with the side setback requirement. The new structure will have a stormwater management system which will be an improvement. The Board finds that the new structure will be an improvement and will not be substantially more detrimental to the neighborhood.

IV. CONDITIONS OF APPROVAL

1. Smoke, heat 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. 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
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. All site work shall be in compliance with the documents submitted to the Board as listed in Section V of this Decision, including the Plans, 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, except that minor changes in dimension that do not increase the size of the structure or encroach on any required setback may be allowed by the Building Commissioner as field changes.
6. The owner must affirm that there is no connection whether direct or indirect to the Town storm water system from the site, including any drainage sump pump, perimeter drains, roof drains, or any other source.
7. The applicant shall install a dry well or other approved stormwater system for the proposed structure 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.
8. 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.

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. “Site Plan #25 Holliston Street Medway, Massachusetts” prepared by Grady Consulting, LLC, dated December 13, 2023
2. Architectural plans entitled “Ballard Restoration Project 25 Holliston St. Medway, MA” prepared by Meadowbrook Restoration dated September 29, 2023, 12 sheets (the “Architectural Plans”)

B. During the course of the review, the following materials were submitted to the Board:

1. “Site Plan #25 Holliston Street Medway, Massachusetts” prepared by Grady Consulting, Inc. dated January 10, 2024 (the “Site Plan”)
2. Stormwater Management Design Calculations dated January 10, 2024, prepared by Grady Consulting, LLC

C. Comments from Town officials:

1. Email from Health Agent Derek Kwok dated December 28, 2023
2. Email from Highway Superintendent Nolan Lynch dated December 28, 2023
3. Email from Conservation Agent Bridget Graziano dated January 10, 2024

VI. VOTE OF THE BOARD

By a vote of 4 to 0 , the Zoning Board of Appeals hereby **GRANTS** the Applicants Jason and Sarah Ballard a ***SPECIAL PERMIT*** under Section 5.5 of the Zoning Bylaw to raze an existing nonconforming single-family house that has been damaged by fire and construct a new single-family home at 25 Holliston Street (Assessors' Parcel ID:60-008), in accordance with the application, the Site Plan (a copy of which is attached hereto as Exhibit A), and the Architectural Plans, and subject to the ***CONDITIONS*** herein.

Member:	Vote:	Signature:
Brian White	Aye	_____
Christina Oster	Aye	_____
Joe Barresi	Aye	_____
Tom Emero	Aye	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision 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 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, section 17, and shall be filed within 20 days after the filing of this notice 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 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 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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Christina Oster	Aye	<hr/>
Joe Barresi	Aye	<hr/>
Tom Emero	Aye	 <hr/>

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