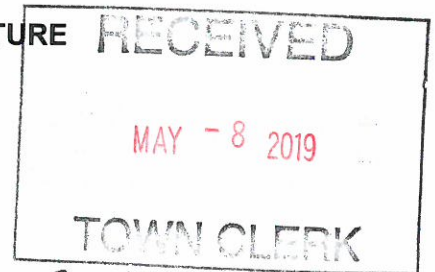




Town of Medway
ZONING BOARD OF APPEALS
155 Village Street, Medway, MA 02053

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

DECISION
DETERMINATION/FINDING NONCONFORMING STRUCTURE
32 MILFORD STREET



*20 day Appeal
period May 28, 2019*

Date Application Filed: April 4, 2019

Applicant(s): James and Lisa Washek ("the Applicants")
32 Milford Street
Medway, MA 02053

Location of Property: 32 Milford Street (Assessor Parcel ID: 47-118), AR-II Zoning District.

Approval Requested: Determination/finding under Section 5.5.C Nonconforming Uses and Structures, and special permit if necessary, of the Zoning Bylaw to raze the pre-existing, nonconforming single family house and construct a new two-story single family house which will exceed the height of the existing house, substantially in accordance with the plans provided.

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

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

Hearing Opened: May 1, 2019

Hearing Closed: May 1, 2019

Date of Decision: May 1, 2019

Decision: **GRANTED**

Vote of the Board
32 Milford Street



Town of Medway
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155 Village Street, Medway, MA 02053

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Hearing Opened: May 1, 2019

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I. PROCEDURAL HISTORY

1. On April 4, 2019 the Applicants filed an application for a Determination/Finding with a potential special permit application, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, in order to raze the pre-existing, nonconforming single family house and construct a new two-story single family house which will exceed the height of the existing house, substantially in accordance with the plans provided. The applicant applied on March 29, 2019 for a demolition permit for the existing house, which was referred to the Historical Commission under Article XVII of the General Bylaws. The Historical Commission considered the application April 3, 2019, and determined that the existing house is not historically significant; accordingly, no demolition delay is required.
2. Notice of the public hearing was published in the Milford Daily News on April 17, 2019 and April 24, 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 May 1, 2019. The Board closed the public hearing the same evening.
4. The Property is located in the AR-II (Agricultural Residential) Zoning District. The front setback requirement is 35 feet and the side and rear setback requirements are 15 feet. Minimum lot area is 22,500 square feet, and minimum frontage 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. TESTIMONY

At the May 1, 2019 meeting, the hearing was opened by the Board. The Applicants Jim and Lisa Washek were present and provided an overview of the proposed two story dwelling. Mr. Washek presented his application by stating the existing house is not cost effective to continue to renovate. They propose to demolish the pre-existing nonconforming single family house and build a new one that would be smaller in scale in relation to other new construction abutting the property. They would keep the existing garage and construct the new house which would be 1800-1900 square foot Colonial style in its place.

Mr. Stumpf discussed the Historical Commission finding on the existing house that the house was not of significant historical importance to the Town and the Commission does not object to the demolition of the house.

Mr. Phenegar spoke to the property being surrounded by 3 new houses and confirms that Mr. and Mrs. Washek own the existing garage structure on the property. He confirms they would be rotating the new house to face a different direction on the property.

Mr. Stumpf states there are no objections by any abutters or Board members for the proposed demolition of the existing house.

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.

A. Section 5.5.C Findings

Mr. White moved, seconded by Mr. Phenegar that the Board determines that the existing single family home at 32 Milford Street is a legally existing, nonconforming structure, in that it is nonconforming in the following respects: The lot is a pre-existing nonconforming lot due to insufficient frontage, as the AR-II zone requires 150 feet of frontage, but the Property has only 132 feet. In addition, it appears that the existing house does not comply with the required 35-foot front setback; motion passed by a unanimous vote of 4-0-0.

Mr. White moved, seconded by Mr. Phenegar that the Board finds that the application to raze the pre-existing, nonconforming single family home and construct a new two-story single family home which will exceed the height of the existing home, substantially in accordance with the plans provided, does not increase the nonconforming nature of the structure; motion passed with a unanimous vote of 4-0-0.

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 **GRANTED** the Applicants, James and Lisa Washek a finding under Section 5.5.C of the Zoning Bylaw, that to raze the pre-existing, nonconforming single family house and construct a new two-story single family house which will exceed the height of the existing house, substantially in accordance with the plans provided, does not increase the nonconforming nature of the structure, subject to the following conditions.

1. This determination is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes that may be required by the decisions of other Town boards, agencies or commissions may need to be

submitted to the Board for review.

2. Any work or use that deviates from this Decision may be a violation of the Medway Zoning Bylaw.
3. The new single family house will comply with all dimensional requirements of the current zoning bylaw, except lot frontage, and shall not exceed 25 feet in height.
4. The Applicants agreed to comply with the comments of the Department of Public Services that water service to the house will have to be updated from the curb to the house; and comments of the Conservation Agent that the septic system will need soil testing and Board of Health approval if additional bedroom(s) added, and that roof run-off should be directed into the ground via a dry well or sub-surface infiltrator, not directed into the town system.

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 Structure Plan of Land in Medway, MA, Owner: James Washek, 32 Milford Street Medway, Ma 02053" prepared by Colonial Engineering, Inc. dated March 26, 2019, revised April 4, 2019.

B. The following comments were received from Town departments:

1. Email from Medway Water and Sewer Superintendent, Barry Smith received on April 8, 2019.
2. Email from Medway Department of Public Services Director, David Damico received on April 9, 2019.
3. Email from Medway Conservation Agent, Bridget Graziano received on April 9, 2019.
4. Email from Town of Medway Town Treasurer, Joanne Russo received April 11, 2019.
5. Email from Fire Department, Fire Chief Jeff Lynch received on April 18, 2019
6. Application to Demolish Building 75 or More Years Old
7. Letter from Medway Historical Commission to Applicants dated April 5, 2019

(Intentionally Left Blank)

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 Applicants, James and Lisa Washek, of 32 Milford Street under Section 5.5.C of the Zoning Bylaw, a finding that the application to raze the pre-existing, nonconforming single family home and construct a new two-story single family home which will exceed the height of the existing home on a pre-existing nonconforming lot due to insufficient area, substantially in accordance with the plans provided, does not increase the nonconforming nature of the structure, subject to conditions stated in this Decision.

Member:	Vote:	Signature:
Rori Stumpf	YES	_____
Brian White	YES	_____
Carol Gould	YES	_____
Christina Oster	Not Present	_____
Gibb Phenegar	YES	_____

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 variance or special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds 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.

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 Applicants, James and Lisa Washek, of 32 Milford Street under Section 5.5.C of the Zoning Bylaw, a finding that the application to raze the pre-existing, nonconforming single family home and construct a new two-story single family home which will exceed the height of the existing home on a pre-existing nonconforming lot due to insufficient area, substantially in accordance with the plans provided, does not increase the nonconforming nature of the structure, subject to conditions stated in this Decision.

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Rori Stumpf	YES	_____
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