



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  
SPECIAL PERMIT  
7 SANDERSON ST**

**Date Application Filed:** July 26, 2018

**Applicant(s):** Daniel Kane ("the Applicant")  
7 Sanderson Street  
Medway, MA 02053

**Location of Property:** The Property is located at 7 Sanderson Street (Assessor Parcel ID: 60-014).

**Approval Requested:** Special Permit under Section 5.5 Nonconforming Uses & Structures for the addition of a porch, increasing the nonconforming nature of the existing front setback.

**Members Participating:** Brian White (Vice Chair), Carol Gould, Christina Oster, and Gibb Phenegar

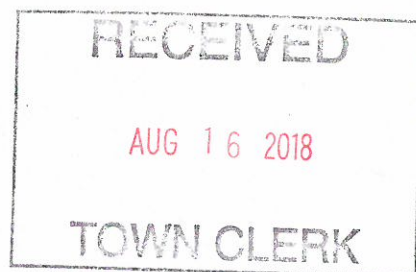
**Members Voting:** Brian White (Vice Chair), Carol Gould, Christina Oster, and Gibb Phenegar

**Hearing Opened:** August 15, 2018

**Hearing Closed:** August 15, 2018

**Date of Decision:** August 15, 2018

**Decision:** Granted



20 Day Appeal  
September 5, 2018



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## **I. PROCEDURAL HISTORY**

1. On July 26, 2018, the Applicant's Representative filed a special permit under Section 5.5 Nonconforming Uses & Structures for the addition of a porch, increasing the nonconforming nature of the existing front setback.
2. Notice of the public hearing was published in the Milford Daily News on August 1, 2018 and August 8, 2018, 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 August 15, 2018. The hearing was closed the same evening.
4. The Property is located in the Village Residential (VR) 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.
5. The existing one-family structure is located on a nonconforming lot of 16,628 sq. ft. and 100 feet of frontage, with an existing nonconforming front setback of 18.9 feet.
6. The Board notified Town departments, boards and committees of this application. The Board did not receive any comments.
7. 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 August 15, 2018 meeting, the hearing was opened by the Board. The Applicant was present. The Applicant explained that the housing was nonconforming because the setback was at 18.9 feet where 20 feet is required for the front setback in the VR Zoning District. The Applicant was looking to add an addition of a porch in order for him and his wife to age in place and to have covered porch that could be easily maintained and would provide a safe pathway in the winter.

The Board felt the request was minor and would represent an insubstantial changes to the property and existing nonconforming front setback.

### 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 Nonconforming Uses & Structures Special Permit Criteria

1. *Section 5.5.C.2. of the Medway Zoning Bylaw requires the Board to determine that if the nonconforming nature of an existing one-family or two-family structure will be increased, the reconstruction, extension, alteration, or structural change does not create a new nonconformity and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.*
  - a. **The Board finds that although the applicant proposes to increase the nonconforming nature of the existing front setback from 18.9 to 10 feet, the addition of a farmer's porch, approximately 8 feet wide, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.**
2. *Section 5.5.D of the Medway Zoning Bylaw requires the Board to determine that the proposed use is not substantially more detrimental to the neighborhood than the existing nonconforming use.*
  - a. N/A
3. *Section 5.5.E of the Medway Zoning Bylaw requires the Board to determine that if the nonconforming nature of an existing structure other than a one-family or two-family dwelling will be increased, the reconstruction, extension, alteration, or structural change does not create a new nonconformity and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.*
  - a. N/A

#### 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 hereby **GRANTS** the Applicant, Daniel Kane, a **SPECIAL PERMIT** under Section 5.5 Nonconforming Uses & Structures of the Zoning Bylaw for the addition of a porch, increasing the nonconforming nature of the existing front setback from 18.9 feet to 10 feet for the property located at 7 Sanderson Street (Parcel ID: 60-014), where a 20 foot front setback is typically required in the Village Residential District, subject to the **CONDITIONS** herein.

1. The 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 modification.

Any work or use that deviates from this Decision shall be a violation of the *Medway Zoning Bylaw*.

2. 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. If no request for extension is filed and approved, the special permit shall lapse two years from the date of Decision, unless action is taken, or as may be otherwise specified herein, and may be reestablished only after a new filing, hearing, and decision.

#### 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. Deck Building Plan, hand drawn, received July 26, 2018
2. Plot Plan for 7 Sanderson Street, dated June 7, 2018, prepared by O'Driscoll Land Surveying, Co. or 46 Cottage Street, Medway, MA 02053

**B.** During the course of the review, the following materials were submitted to the Board by Town Departments/Boards:

1. N/A

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision 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 (20) 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, 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.

The next page provides the signatures of the Board.

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## VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Gibb Phenegar and seconded by Carol Gould, the Zoning Board of Appeals hereby GRANTS the Applicant, Daniel Kane, a **SPECIAL PERMIT** under Section 5.5 Nonconforming Uses & Structures of the Zoning Bylaw for the addition of a porch, increasing the nonconforming nature of the existing front setback from 18.9 feet to 10 feet for the property located at 7 Sanderson Street (Parcel ID: 60-014), where a 20 foot front setback is typically required in the Village Residential District, subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Rori Stumpf	<u>-</u>	<u></u>
Brian White	<u>YES</u>	<u></u>
Carol Gould	<u>YES</u>	
Christina Oster	<u>YES</u>	
Gibb Phenegar	<u>YES</u>	

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision 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.

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