



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  
8 OLDE SURREY LANE**

**Date Application Filed:** July 16, 2018

**Applicant(s):** Stacy & Kainne Hansbury ("the Applicant")  
8 Olde Surrey Lane  
Attleboro, MA 02703

**Location of Property:** The Property is located at 8 Olde Surrey Lane (Assessor Parcel ID: 12-082).

**Approval Requested:** Special Permit under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit ("AFDU").

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

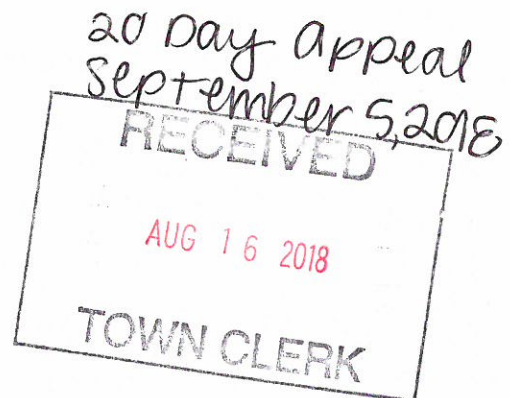
**Members Voting:** Brian White (Vice Chair), Carol Gould, Christina Oster, and Gibb Phenegar

**Hearing Opened:** August 15, 2018

**Hearing Closed:** August 15, 2018

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

**Decision:** Granted





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  
8 OLDE SURREY LANE**

**Date Application Filed:** July 16, 2018

**Applicant(s):** Stacy & Kainne Hansbury (“the Applicant”)  
8 Olde Surrey Lane  
Attleboro, MA 02703

**Location of Property:** The Property is located at 8 Olde Surrey Lane (Assessor Parcel ID: 12-082).

**Approval Requested:** Special Permit under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit (“AFDU”).

**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

## **I. PROCEDURAL HISTORY**

1. On July 16, 2018, the Applicant's Representative filed an applicant for a special permit under Section 8.2 of the Medway Zoning Bylaw for a special permit for an Accessory Family Dwelling Unit.
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 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 s.f. and the minimum frontage requirement is 180 feet. Accessory Family Dwelling Units are allowed by special permit.
5. The Applicant was represented by Walter Avallone of 195 Saddle Hill Road, Hopkinton, MA 01748.
6. The Board notified Town departments, boards and committees of this application. The Board received comments from the Fire Department.
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 with their representative. The Applicant provided an overview of the request as outline in the application presented to the Board.

The Board did not raise any major questions and felt that the Applicant had addressed all of the criteria required for the AFDU special permit.

Mackenzie Leahy, Community & Economic Development Department, asked what the attic space in the pitch roof would be used for. The Applicant indicated that it was a very small space and would be used for storage. Ms. Leahy noted that it could not be converted to a livable area for the AFDU.

### 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 3.4 Special Permit Decision Criteria

1. *The proposed site is an appropriate location for the proposed use.*
2. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*
3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.*
4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area.*
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.*
6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.*
7. *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.*
9. *The proposed use will not be detrimental to the public good.*

**The Board finds that the Applicant has demonstrated through testimony and written materials, specifically the Special Permit Form submitted with the application, that they have met all of the required Special Permit Decision Criteria.**

#### B. Section 8.2 Nonconforming Uses & Structures Special Permit Criteria

1. *An accessory family dwelling unit shall be located within:*
  - a. a detached single-family dwelling (principal dwelling unit); or
  - b. an addition to a detached single-family dwelling (principal dwelling unit); or
  - c. a separate structure on the same premises as a detached single-family dwelling (principal dwelling unit).

**The proposed AFDU is located partially within the existing single family dwelling and an addition to the 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 proposed AFDU is the only AFDU on the premises.**

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 has only one bedroom, as shown on the plans “Addition 8 Olde Surrey La – Medway, MA: Accessory Family Dwelling Unit,” dated June 20, 2018.**

4. *An accessory family dwelling unit shall not exceed 800 sq. ft. of gross floor area unless:*
  - a. *there is an existing detached accessory structure larger than 800 sq. ft. located on the same lot as a detached single-family dwelling (principal dwelling unit) and the Board of Appeals determines its use as an accessory family dwelling unit is in character with the neighborhood; or*
  - b. *authorized by the Board of Appeals pursuant to 8.2.C.8.*

**The proposed AFDU has a total of 799 square feet. There is an existing vaulted ceiling above the portion of the existing home which will be converted to the AFDU which has unfinished attic space accessible for the home owner’s through the AFDU, as shown on the plans “Addition 8 Olde Surrey La – Medway, MA: Accessory Family Dwelling Unit,” dated June 20, 2018, and as indicated by email correspondence from Jacqueline McMullen, parent of Stacy Hansbury, dated July 30, 2018.**

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 has at least one off-street parking space, as shown on the Mortgage Inspection Record Plan prepared by Engineering, Surveying, and Planning Associates of 89 Main Street, Suite 203, Medway, MA 02053, altered by the applicant, received by the ZBA August 1, 2018**

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, except for bona fide temporary absences due to employment,*

*hospitalization, medical care, vacation, military service, or other comparable absences which would not negate the primary residency standard. For purposes of this Section, “owners” shall mean one or more individuals who hold legal or beneficial title to the premises.*

- 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;*
  - iii. *an unrelated caregiver for an occupant of the detached single-family dwelling or the accessory family dwelling unit, who is an elder, a person with a disability, handicap or chronic disease/medical condition, or a child.*

**The proposed AFDU will be occupied by the homeowner, Stacy Hansbury’s parents, as indicated by email correspondence from Jacqueline McMullen, parent of Stacy Hansbury, dated July 30, 2018.**

- 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 proposed AFDU is located to the rear of the existing single, with entrances to the side and rear of the residence from the street frontage, as shown on the Mortgage Inspection Record Plan prepared by Engineering, Surveying, and Planning Associates of 89 Main Street, Suite 203, Medway, MA 02053, altered by the applicant, received by the ZBA August 1, 2018 and the plans “Addition 8 Olde Surrey La – Medway, MA: Accessory Family Dwelling Unit,” dated June 20, 2018.**

- 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 accessory 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 proposed AFDU does not require any deviations from the Basic Requirements in the Zoning Bylaw for an Accessory Family Dwelling Unit.**

#### 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 **GRANTS** the Applicant, Stacy Hansbury, a **SPECIAL PERMIT** under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit, subject to the conditions herein.

1. The additional shall include a hard wired with battery back-up smoke detector inside the bedroom and hard wired with battery back-up smoke and carbon monoxide detectors in the living room of the addition within 10 feet of the bedroom door. These detectors need to be interconnected not only with themselves but with the existing detectors that are in the house. Existing detectors must be less than 10 years old. All 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 variance 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.

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

3. 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 one year 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. Plan of Addition 8 Olde Surrey La – Medway, MA: Accessory Family Dwelling Unit, dated June 20, 2018
2. Mortgage Inspection Record Plan prepared by Engineering, Surveying, and Planning Associates of 89 Main Street, Suite 203, Medway, MA 02053, altered by the Applicant
3. Email correspondence from Jacqueline McMullen, parent of Stacy Hansbury, dated July 30, 2018

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

1. Comments: Fire Department, dated July 27, 2018

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.

[Intentionally Blank]

## VI. VOTE OF THE BOARD

By a vote of 4 to 0, on a motion made by Gibb Phulegaur and seconded by Christina Oster, the Zoning Board of Appeals hereby GRANTS the Applicant, Stacy Hansbury, a **SPECIAL PERMIT** under Section 8.2 of the Zoning Bylaw for an Accessory Family Dwelling Unit, subject to the conditions herein.

**Member:**

**Vote:**

**Signature:**

Rori Stumpf

---

\_\_\_\_\_

Brian White

Yes



Carol Gould

yes

Christina Oster

yes

## Gibb Phenegar

yes

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