

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF:

**Rikki Saksik
Petitioner**



*30 day appeal
date May 21, 2017*

OPINION OF THE BOARD

**REQUEST FOR SPECIAL PERMIT
7 Azalea Drive
Medway, MA 02053**

Hearing: April 19, 2017

Decision: April 19, 2017

MEMBERS PRESENT:

**David Cole, Chairman
Carol Gould, Clerk
Eric Arbeene, Member
Brian White, Member
William Kennedy, Member
Rori Stumpf, Associate Member**

THE WRITTEN OPINION WAS DELIVERED ON MAY 1, 2017

OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA (hereinafter the Board) acting under the Zoning Bylaw of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioner, Rikki Saksik, seeks a Special Permit under Section 8.2 for an Accessory Family Dwelling Unit intended to be 24 feet by 24 feet, with respect to property located at 7 Azalea Drive, Assessor Parcel ID 37-007.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on April 5, 2017 and April 12, 2017. Notice also was sent to all “parties of interest” and posted in the Town Hall as required by Massachusetts General Laws, Chapter 40A Section 11.

The following documents were received by the Board and included as part of the Application and file for this case:

1. Application received and stamped by the Town Clerk on March 27, 2017
2. Accessory Family Dwelling Unit Floor Plan, Elevations of the Existing Garage and Proposed Unit, and Building and Material Details, received on March 27, 2017
3. Affidavits of Rikki B. Saksik and Gabriel Saksik, Child of Rikki B. Saksik, received on March 27, 2017
4. Dimensional Plans of the Existing Single Family Structure at 7 Azalea Drive, received on March 27, 2017
5. Certified Plot Plan of 7 Azalea Drive, dated July 17, 2012, prepared by Des Lauriers & Associates, Inc. of 420 Fortune Boulevard, Milford, MA 01757
6. Revised Floor Plan and Rear Elevation, showing Two (2) Means of Egress, as requested by the Medway Building Commissioner, received April 7, 2017
7. Comments from the Medway Fire Chief, received April 10, 2017

The Public Hearing opened and closed on April 19, 2017, and all deliberations were conducted and the Decision rendered on the same day. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; William Kennedy, Member; and Rori Stumpf, Associate Member. The Board members voting were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; William Kennedy, Member; and Brian White, Member.

Hearing Summary

The Applicant, Rikki Saksik, appeared before the Board to discuss the request for a Special Permit under Section 8.2 to allow for an Accessory Family Dwelling Unit. Dave Martino, Ms. Saksik's builder, was also present.

Ms. Saksik stated that she hoped that the Board would look favorably upon her request. She has an adult child with special needs and would like her son to live close by.

Chairman Cole summarized the request which was for an Accessory Family Dwelling Unit, intended to be twenty four feet by twenty four feet (24 ft. x 24 ft.) over an existing two-car garage. Ms. Saksik said that was correct.

Chairman Cole stated that it appeared that there was a spare bed on the plans. Mr. Arbeene asked where the bed would be within the unit, as only a single bed is allowed and it did not appear to be marked on the plans. Ms. Saksik explained that the spare bed was intended to be a reading area above the bed. Mr. Arbeene asked if it would be similar to a loft. Ms. Saksik responded that it would be.

Chairman Cole explained that granting of a Special Permit for an accessory family dwelling unit does not grant permission to use the unit as a two-family dwelling and the accessory family dwelling unit could not be used as an independent apartment. Ms. Saksik stated that she understood. Chairman Cole further explained that should Ms. Saksik's son move out of the unit, the unit must either be occupied as noted in Section 8.2. C. 6. B or cease to be used.

Chairman Cole stated that he understood that the two exits with the single set of stairs at the rear of the garage met the Building Code.

Mackenzie Leahy, Administrative Assistant for Community and Economic Development, stated that the Board had received comments from the Medway Fire Chief, but those were the only comments received by the Board for the application.

Chairman Cole summarized the comments and asked if the smoke detectors would be interconnected with the current home system, assuming that a one hour fire separation wall would not be constructed. Mr. Martino stated that the Accessory Family Dwelling Unit smoke detectors would be connected to the main house.

Chairman Cole stated that it appeared that there was no deviation from the setbacks in the AR-I district, as the unit was to be constructed above the existing garage.

Ms. Gould asked if the house had septic or sewer. Ms. Saksik stated that the home was on Town Sewer.

Chairman Cole inquired if there were members of the public that wish to comment on the application. Jeanette Verdolino of 5 Azalea Drive stated that Ms. Saksik was a wonderful neighbor and gave general support of the application.

During deliberations, Mr. Stumpf stated that he was supportive of the request as he could find no reason not to be and that there would be no detriment to the neighborhood. Mr. Arbeene concurred with Mr. Stumpf's sentiment.

Chairman Cole stated that the request exemplified the intent of having Section 8.2 of the Medway Zoning Bylaw, and the intent of an accessory family dwelling unit.

Chairman Cole also noted that the existing two-car garage and driveway should suffice for the requirement of a designated parking location for a vehicle of the accessory family dwelling unit.

Findings:

By a vote of 5-0-0:

1. The Board finds that the applicant demonstrated that the proposed Accessory Family Dwelling Unit met the requirements of Section 8.2 C. Basic Requirements:
 1. The accessory family dwelling unit will be located within:
 - b. An addition to a detached single-family dwelling (principle dwelling unit).
 2. There will be no more than one accessory family dwelling unit associated with the detached single-family dwelling (principal dwelling unit).
 3. The accessory family dwelling unit does not have more than one bedroom.
 4. The accessory family dwelling unit does not exceed 800 sq. ft. of gross floor area.
 5. There will 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 will 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 has been reviewed by the Board of Appeals to ensure its location and appearance are in keeping with the residential character of the neighborhood.
 6. Occupancy of the single-family dwelling (principal dwelling unit) and accessory family dwelling unit will 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.
 - b. The accessory dwelling unit and the detached single-family dwelling (principal dwelling unit) will be occupied by the following:
 - ii. The owner's family by blood, marriage, adoption, foster care or guardianship.

7. The accessory family dwelling unit is designed so as to preserve the appearance of the single-family dwelling (principal dwelling unit) and is compatible with the residential character of the neighborhood. The new separate outside entrance serving an accessory family dwelling unit is to be located in the rear of the building.
2. The Board finds that grant of the requested Special Permit would not be inconsistent with any of the criteria set forth in Section 3.4. C. Decision Criteria.
3. The Board finds that grant of the requested Special Permit would not have a detrimental effect to the surrounding neighborhood.

Relief Granted:

By a vote of 5-0-0:

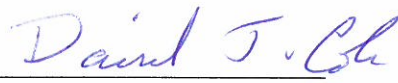
The Board Grants to the Applicant, Rikki Saksik of 7 Azalea Drive, a Special Permit pursuant to Section 8.2 of the Medway Zoning Bylaw for an Accessory Family Dwelling Unit subject to the conditions that the Accessory Family Dwelling Unit shall be constructed substantially in accordance with the plans provided and subject to conditions set forth in Section 8.2 D. 2:

- a. Recording. The special permit shall be recorded with the Registry of Deeds prior to issuance of an occupancy permit for the accessory family dwelling unit.
- b. Transfer of Ownership. If the new owner(s) desires to continue to exercise the special permit, they must, within thirty (30) days of the conveyance, submit a notarized letter to the Building Inspector 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.
- c. Bi-Annual Certification. The owner of the property shall provide a bi-annual certification to the Building Inspector verifying that the unit not occupied by the owner is occupied by one of the parties specified in Section 8.2 C. 6. b. or that the space is being used for another lawfully allowed use pursuant to this Bylaw.

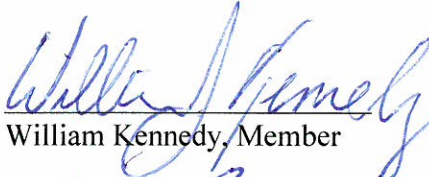
The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

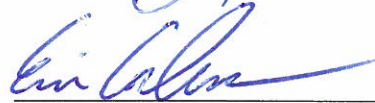
Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to MGL c. 40A, Section 17, within twenty (20) days after the date of filing this Decision with the Town Clerk.

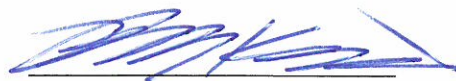
In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, 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. The fee for recording or registering shall be paid by the owner or applicant.

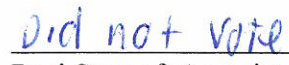

David J. Cole, Chairman


Carol Gould, Clerk


William Kennedy, Member


Eric Arbeene, Member


Brian White, Member


Rori Stumpf, Associate Member