

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



Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 321-4890
zoning@townofmedway.org

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
SPECIAL PERMIT/ACCESSORY FAMILY DWELLING UNIT
22 FIELD ROAD

Applicants: David Hodgdon and Christian Hodgdon

Location of Property: 22 Field Road (Assessor Parcel ID: 22-082)

Approval Requested: The application is seeking a **Special Permit for an Accessory Family Dwelling Unit (AFDU)** under Zoning Bylaw Section 8.2 to construct an accessory family dwelling unit of more than 800 square feet as an addition to the existing house.

Members Voting: Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Joe Barresi, Member; Tom Emero, Member; Adam Kaufman, Associate Member, sitting by designation

Date of Decision: September 4, 2024

Decision: **Granted with Conditions**

I. PROCEDURAL HISTORY

1. On August 8, 2024, the Applicants filed for a Special Permit for an Accessory Family Dwelling Unit (AFDU) under Zoning Bylaw Section 8.2.
2. Notice of the public hearing was published in the Milford Daily News on August 21, 2024, and August 28, 2024, and notice sent by mail to all parties in interest and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on September 4, 2024. The hearing was closed that evening.
4. The Property at 22 Field Road is located in the Agricultural Residential I (AR-1) Zoning District. The front setback requirement is 35 feet, and the side and rear setback requirements

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RECEIVED TOWN CLERK
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4. The Property at 22 Field Road is located in the Agricultural Residential I (AR-1) 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 square feet, and the minimum lot frontage requirement is 180 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. SUMMARY OF EVIDENCE AND TESTIMONY

The Chair designated associate member Adam Kaufman to sit on this hearing in the absence of member Brian White.

The applicants, David and Christian Hodgdon, were present and stated that the property is owned by their son. The applicants will be living in the AFDU. The AFDU will be an addition to the existing single-family home, and have a gross floor area of 997 square feet, as well as a garage and an entry way that is shared with the primary dwelling that are not included in the gross floor area. They are aware that they need to provide the Town, particularly the Building Commissioner, with a certified plot plan showing the AFDU addition. The plan will also need to show the trees that will be removed and the location of the second driveway that is proposed for the AFDU. The Zoning Bylaw generally restricts AFDU's to a maximum of 800 square feet gross floor area, but allows the Board to make exceptions. In response to a question from Mr. Phenegar, they explained that the reason they are asking for an AFDU of more than 800 square feet is because, as they get older, the extra half-bath will be more accessible. Also, they plan to construct the AFDU with wide doorways, suitable for wheelchairs, and a wider entrance. It was also discussed that they will need a curb cut permit from the Department of Public Works and will need to comply with DPW requirements. Mr. Phenegar reviewed all of the AFDU criteria with the Board members, and also the special permit criteria. The conditions were reviewed and explained to the applicants, who had no questions or objections to the conditions. The procedures for field changes and modifications were also explained to the applicants.

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 the application submittals, plans, comments from Town officials and committees, and evidence and testimony presented at the public hearing.

A. Section 8.2 Accessory Family Dwelling Unit Criteria

The Board found that the application meets all the required criteria for Section 8.2 on the following findings:

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 an addition to a detached single-family dwelling (principal dwelling unit).

- 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 will have only one bedroom as shown on the Floor Plan.

- 4. An accessory family dwelling unit shall not exceed 800 sq. ft. of gross floor area unless authorized by the Board pursuant to Section 8.2.C.8.

The proposed AFDU will be more than 800 square feet. The Board found pursuant to Section 8.2.C.8 that the increased size of the AFDU will help accommodate accessibility for persons that are disabled by providing wider doorways and spaces for wheelchairs and other mobility devices, as well as a more accessible half-bath.

- 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.

There is at least one designated off-street parking space for the accessory family dwelling unit in the proposed new garage, as well as parking in the proposed driveway.

- 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.

The owners of the property shall reside in one of the units as their primary residence.

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 accessory family dwelling unit will be occupied by the owners' relatives.

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 Board found that the addition as proposed is compatible with the neighborhood; the shared entrance preserves the appearance of a single-family home.

B. Section 3.4 Special Permit Decision Criteria

The Board found that the application meets all the required Special Permit Decision Criteria for Section 3.4 on the following findings:

- 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 Applicants have demonstrated through evidence submitted, including the Plan, the Floor Plan, the Architectural Plans, review of the square footage and usage of the AFDU, that they have met all the required Special Permit Decision Criteria under Section 3.4 of the Zoning Bylaw, including that any adverse effects will not outweigh its beneficial impact to the town.

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 19 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. Stormwater shall be managed through subsurface infiltration units or other engineer designed systems. Any and all new gutters and downspouts shall not be placed in a manner to allow discharge of stormwater to the street or toward abutting properties. The contractor shall contact the Conservation Agent for review of the excavation of any subsurface infiltration to meet the standards for installation 2' above the estimated seasonal high groundwater.

6. All site work shall be in compliance with the Plans as conditioned by this Decision, 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 addition or encroach on any required setback may be allowed by the Building Commissioner as field changes.

7. There shall be no tracking of construction materials onto any public way. 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.

8. The owner must confirm in writing prior to issuance of an occupancy permit 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.

9. The applicant shall comply with all Department of Public Works (DPW) regulations and requirements for any street opening permits, utility connections, or other work within DPW jurisdiction.

10. This special permit shall be recorded with the Registry of Deeds prior to issuance of an occupancy permit for the accessory family dwelling unit.

11. Upon transfer of ownership of the property, if the new owners desire to continue to exercise the special permit, they must, within thirty days of the conveyance, submit a notarized letter to the Building Commissioner 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. of the Zoning Bylaw.

12. The owner of the property shall provide a bi-annual certification to the Building Commissioner verifying that the unit not occupied by the owner is occupied by one of the parties specified in Section 8.2.C. 6. b. of the Zoning Bylaw, or that the space is being used for another lawfully allowed use pursuant to the Zoning Bylaw.

15. Stockpiles shall be surrounded by erosion controls.

V. INDEX OF DOCUMENTS

A. The application included the following information that was provided to the Board at the time the application was filed:

1. Application dated August 8, 2024.
2. Proposed Floor Plans
3. Proposed Design Photo's prepared by David Hodgdon (herein the "Architectural Plans")
4. "Certified Plot Plan located at 22 Field Road", Prepared by Continental Land Survey, LLC, dated July 16, 2024 (herein the "Plot Plan")

B. Other documents received by the Board:

1. Email from Derek Kwok, Board of Health Director, dated August 14, 2024
2. Email from Nolan Lynch, Highway Superintendent, dated August 16, 2024
3. Email from Jeremy Thompson, Planning and Economic Development Coordinator, dated August 16, 2024
4. Email from Craig Vinton, Deputy Chief, Fire Department, dated August 20, 2024
5. Email from Jon Ackley, Building Commissioner, dated August 20, 2024
6. Email from Bridget Graziano, Conservation Agent, dated August 20, 2024
7. Email from Bridget Graziano, Conservation Agent, dated August 28, 2024

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VI. VOTE OF THE BOARD

By a vote of 5-0, the Zoning Board of Appeals hereby **grants** the Applicants, David Hodgdon and Christian Hodgdon, a **Special Permit for an Accessory Family Dwelling Unit (AFDU)** under G.L. c. 40A §9, and Zoning Bylaw Section 8.2 subject to the Plans and the CONDITIONS contained in this decision, see copy of Plan attached.

| Member: | Vote: | Signature: |
|--------------------------------|-------|------------|
| Gibb Phenegar, Vice-Chair | Aye | _____ |
| Christina Oster, Clerk | Aye | _____ |
| Joe Barresi, Member | Aye | _____ |
| Tom Emero, Member | Aye | _____ |
| Adam Kaufman, Associate Member | Aye | _____ |

The Board and the Applicants have complied with all statutory requirements for the issuance of this special permit on the terms herein 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 twenty 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 and notification by the Applicant of the recording, shall be furnished to the Board.

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| Member: | Vote: | Signature: |
|--------------------------------|-------|------------------------------------------------------------------------------------|
| Gibb Phenegar, Vice-Chair | Aye |  |
| Christina Oster, Clerk | Aye | _____ |
| Joe Barresi, Member | Aye | _____ |
| Tom Emero, Member | Aye | _____ |
| Adam Kaufman, Associate Member | Aye | _____ |

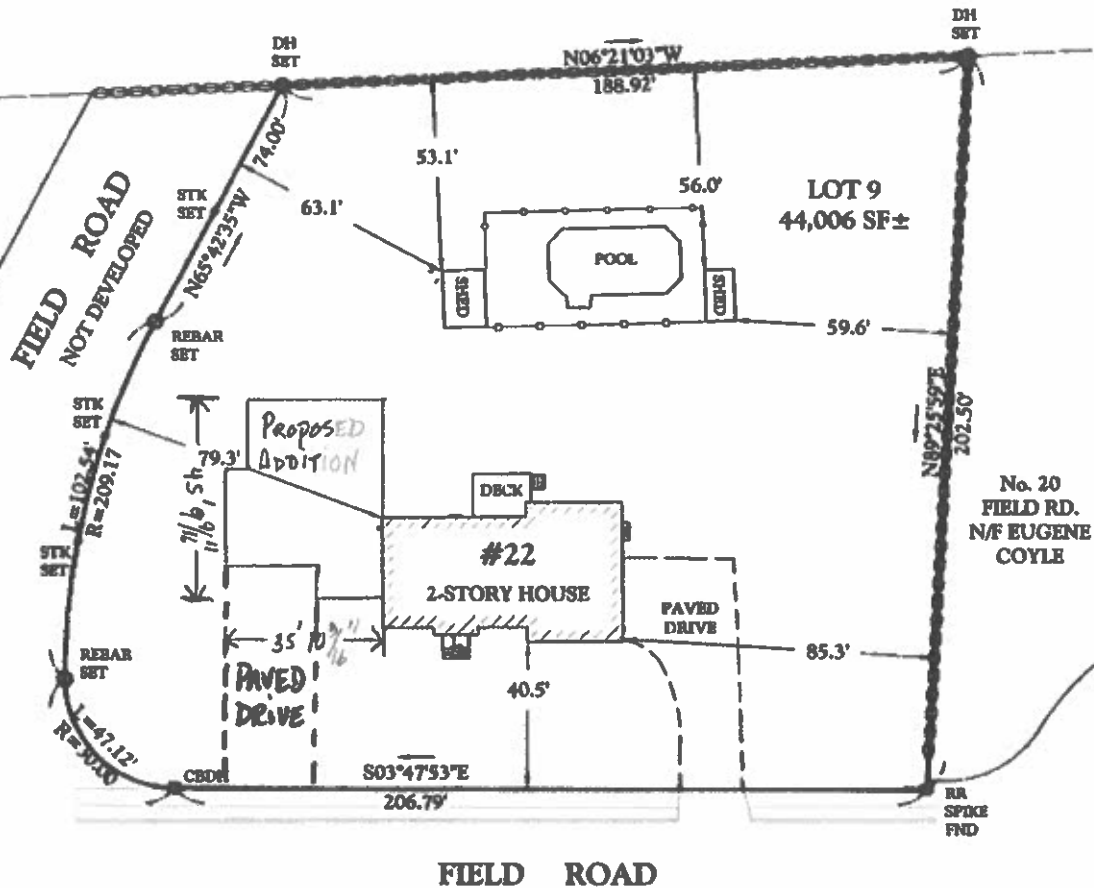
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No. 82
LOVERING ST.
N/F TOWN OF MEDWAY



OWNERS:
ALLEN HODGDON
SAMANTHA HODGDON

REFERENCES:
DEED: BOOK 41837, PAGE 263
PLAN: 271 OF 1999

ZONING DISTRICT: AR-1

EXISTING LOT COVERAGE=6.4%

CERTIFIED PLOT PLAN

LOCATED AT

22 FIELD ROAD

ASSESSORS PARCEL # 22-002

MEDWAY, MA

NORFOLK COUNTY

CONTINENTAL LAND SURVEY, LLC

105 BRAVER STREET, FRANKLIN, MA

(508) 528 - 2528

SCALE: 1"=40' JULY 16, 2024

I CERTIFY THAT THIS
PLAN WAS CREATED BY
AN INSTRUMENT SURVEY
ON THE GROUND AND
THAT ALL STRUCTURES
ARE LOCATED AS SHOWN
HEREON.



CHRISTOPHER C. CHARLTON, PLS

