

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

RECEIVED TOWN CLERK
MAY 22 '25 AM 8:02

DECISION
SPECIAL PERMIT-NONCONFORMING STRUCTURE
VARIANCE GRANTED
17 BUTTERCUP LANE

Appeal Period
June 11, 2025

Applicant: Christine Manning, 17 Buttercup Lane

Location of Property: 17 Buttercup Lane (Assessor Parcel ID: 21-046)

Approval Requested: The application is seeking a special permit under Zoning Bylaw Section 5.5.C to allow extension of a pre-existing nonconforming single-family home to construct an attached garage which will be closer to the side lot line than the required 15 feet.

Members Voting: Brian White, Chair, Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Joe Barresi, Member

Date of Decision: May 21, 2025

Decision: Granted with Conditions

I. PROCEDURAL HISTORY

1. On April 14, 2025, the Applicant filed for a special permit under Zoning Bylaw Section 5.5.C and a variance from the side yard setback.
2. Notice of the public hearing was published in the Milford Daily News on April 23, 2025, and April 30, 2025, 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 May 7, 2024, and continued to May 21, 2025. The hearing was closed that evening.
4. The Property at 17 Buttercup Lane is located in the AR-II (Agricultural Residential II) District. The front setback requirement is 35 feet, and the side and rear setback requirements are 15 feet. The minimum lot area requirement is 22,500 sq. ft., and the minimum lot frontage requirement is 150 feet.

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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

Mandy Hicks of Guaranteed Builders and Development, Inc. was present along with Christine Manning, the owner of 17 Buttercup Lane. Ms. Hicks stated that the shape of the lot and small size of the lot cause a hardship. If the garage were to be pushed back further on the lot to meet the side yard requirement, it would require extra fill and an extension of the driveway. The existing driveway is in the side setback. The proposed new garage would be in keeping with existing neighborhood aesthetics. They also mentioned they have 3 letters of support from surrounding neighbors. Mr. Phenegar mentioned that the existing driveway is a good fit for a garage location, due to it being set back from the main road.

Ms. Saint Andre stated that according to the Assessors' records, the home was built around 1960. The Town's original zoning in 1951 required 10,000 square feet and 100 feet of frontage, which this lot has. When the Town increased the lot size and frontage requirements in 1959, it included a provision that existing lots could be built on. This structure therefore appears to be legally pre-existing, nonconforming single-family structure. Ms. Hicks stated that the entire deck is being removed, and that a patio would be put in place. Ms. Manning stated that no trees will be removed.

Three persons representing 15 Buttercup Lane asked the board for time to review and respond to the application, as their mother, who owned 15 Buttercup Lane, just passed away. They also expressed concern about the potential for a fire hazard where the garage will be so close to their property. The Board members pointed out that this application had been reviewed by the Fire Department, and the construction will need to meet all fire and building codes. The hearing was continued. At the next meeting, a neighbor mentioned that there are some other similar additions in the neighborhood.

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 Plans, comments from Town officials and committees, and evidence and testimony presented at the public hearing.

A. Special Permit under Section 5.5 to extend or alter a nonconforming structure.

The Board finds that the existing single-family structure is nonconforming as to lot size, frontage, and front yard setback. The Board finds that the nonconformity pre-dates the applicable zoning bylaw and is therefore a protected pre-existing, nonconforming structure. The Board further finds that the proposed extension and alteration of the

structure does create a new nonconformity because the proposed garage will be located approximately 9.8 feet from the side lot line, where a fifteen foot setback is required.

The Board finds that the applicant has established a legally pre-existing, nonconforming structure at the property, which is nonconforming as to lot size, frontage, and front yard setback.

Special Permit Decision Criteria for Section 5.5: that the alteration or extension of the pre-existing, nonconforming structure will not be substantially more detrimental to the neighborhood.

The Board finds that the extension or alteration of the nonconforming structure by adding a garage as conditioned herein, will not be substantially more detrimental to the neighborhood, for the reasons set forth herein.

B. G.L. c. 40A, §10 Variance Criteria

1. Whether there are circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

The Board finds that the shape and size of the lot, and the location of the house, there is hardship in locating the garage within the setbacks, as it would require the garage to be further back and require more fill.

2. As a result of which, a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the applicant, and;

The Board finds the hardship is the additional fill and expense to locate the garage elsewhere.

3. Desirable relief may be granted without substantial detriment to the public good, and; The Board finds that this is similar to other additions made in this neighborhood and will fit in well.

4. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

The Board finds that addition of a garage will not be nullifying the zoning bylaw.

The Board finds that the Applicant has demonstrated through evidence submitted, that the application meets all the required variance decision criteria under G.L. c. 40A, §10.

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 and variance is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the variance or 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. Pursuant to G.L. c. 40A Section 10: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not the exceed six months; and provided; further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the

expiration of the original one-year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section.”

6. Any and all new gutters and downspouts shall not be placed in a manner to allow discharge of stormwater to the street or abutting properties.

7. 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.

8. 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.

9. The owner must affirm 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.

10. 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.

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 April 14, 2025
2. Plans entitled “24’ x 26’ Standard Attached Garage” prepared by Guaranteed Builders, Inc. dated May 28, 2024, 8 sheets
3. Plot Plan entitled “17 Buttercup Lane Medway Mass. 02053” dated March 4, 2025 prepared by prepared by Guaranteed Builders, Inc.

B. Other documents received by the Board:

1. Email from N. Lynch, Deputy Director DPW dated 4/16/2025
2. Email from B. Graziano, Conservation Agent, dated 4/30/2025
3. Email from B. Graziano, Conservation Agent, dated 5/7/2025
4. Certificate from Joe Barresi under c. 39 §23D

VOTE OF THE BOARD

By a vote of 4 to 0, the Zoning Board of Appeals hereby Grants the Applicant, Christine Manning, a special permit under Zoning Bylaw Section 5.5.C. and variance under G.L. c. 40A, §10 for alteration or enlargement of the existing nonconforming structure for an attached garage that will not meet the required side setback, subject to the Plans and the Conditions contained in this decision, see copy of Plan attached.

Member:	Vote:	Signature:
Brian White, Chair	Aye	
Gibb Phenegar, Vice Chair	Aye	
Christina Oster, Clerk	Aye	
Joe Barresi, Member	Aye	

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

In accordance with Massachusetts General Laws, chapter 40A, Section 11, no variance 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.

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Christina Oster, Clerk	Aye	_____
Joe Barresi, Member	Aye	_____

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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.

Exhibit A

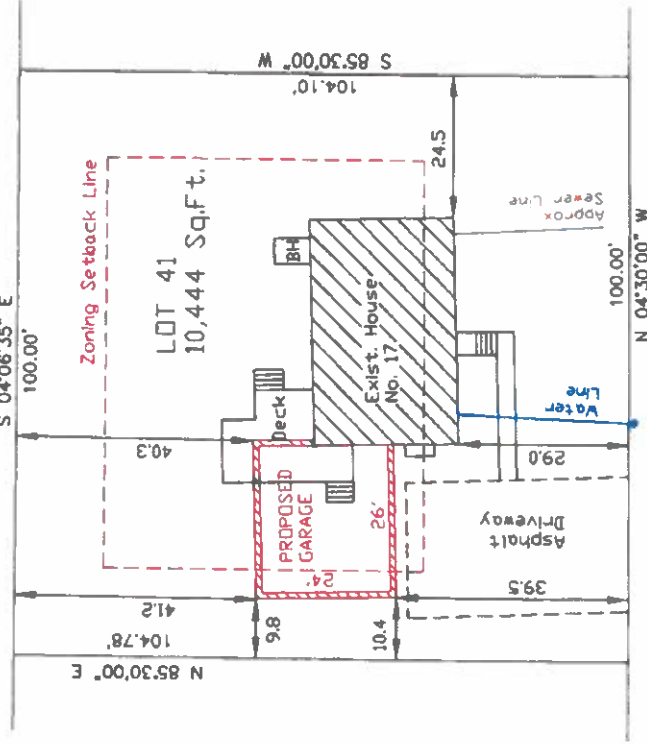
ZONE: Single Family AR II

REQUIRED

AREA	22,000
FRONT YARD	150.00
FRONT YARD	35.00
SIDE YARD	15.00
REAR YARD	15.00

EXISTING BUILDING COVERAGE 8.7%

PROPOSED BUILDING COVERAGE 14.2%



BUTTERCUP LANE



PER FIRM MAP
TOWN OF MEDWAY, MA.
NORFOLK COUNTY
COMMUNITY PANEL NO. 25021C0141E
EFFECTIVE DATE: July 17, 2012
THIS SITE IS NOT IN A DESIGNATED FLOOD ZONE

REFERENCES:
ASSESSORS' REF.
MAP 21, PARCEL 46
DEED BK. 41529 Pg. 502
PLAN BK. 206, PLAN NO. 288



David E. Teachout 4/2/25
DAVID E. TEACHOUT
P.L.S.

1. THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND ARE BASED UPON A FIELD SURVEY AND A COMPILATION OF AVAILABLE PLANS OF RECORD FROM THE VARIOUS UTILITY COMPANIES. THE INFORMATION PROVIDED IS FOR THE USE OF THE CONTRACTOR NEITHER WARRANTY NOR GUARANTEE OF THE INFORMATION IS PROVIDED, THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL UTILITIES BY CONTACTING THE RESPECTIVE UTILITY COMPANIES AND DIG-SAFE.
2. CONSTRUCTION SURVEY STAKEOUT IS RECOMMENDED TO ASSURE THE CORRECT PLACEMENT OF THE PROPOSED STRUCTURE.

GUARANTEED BUILDERS & DEVELOPERS INC.
14 WEST STREET DOUGLAS, MA. 01516
PHONE: (508) 476-1500 FAX (508) 476-1392

COMP'D BY	BRS	SCALE:	1"=20'
DRAWN BY	BRS	DATE:	3/4/2025
CHECK'D BY	DET	ZONE:	AR II
FIELD BY	BRS	FIELD BK. PG.	See DT

PROJECT LOCATION: 17 BUTTERCUP LANE
MEDWAY, MASS. 02053
OWNER: Christine Manning
17 Buttercup Lane
Medway, Mass. 02053