

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
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

*20 Day Appeal
August 10, 2026*

DECISION
VARIANCE
17 MAIN STREET

RECEIVED TOWN CLERK
JUL 21 '26 4:45

Applicant(s): Roy William Coates, II and Stephanie Lynn Greenspan

Owner: same

Location of Property: 17 Main Street (Assessor Parcel ID: 32-033-0001).

Approval Requested: The application is for the issuance of a **variance** from Table 2, Dimensional and Density Regulations, to reduce the required rear yard setback for the construction of an above ground pool.

Members Participating: Brian White, Chair; Gibb Phenegar, Vice Chair; Tom Emero, Member; Joe Barresi, Member; Adam Kaufman, Associate Member

Members Voting: Brian White, Chair; Gibb Phenegar, Vice Chair; Tom Emero, Member; Joe Barresi, Member; Adam Kaufman, Associate Member

Date of Decision: July 15, 2026

Decision: **GRANTED**

I. PROCEDURAL HISTORY

1. On June 22, 2026, the Applicants filed for the issuance of a **variance** under G.L. c. 40A, §10 and Section 3.2 of the Zoning Bylaw.
2. Notice of the public hearing was published in the Milford Daily News on July 1 and July 8, 2026, and notice sent by mail to all parties in interest and posted in Town Hall as required by G.L. c. 40A §11.

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3. The public hearing was opened on July 15, 2026. The hearing was closed the same evening. The Chair designated Associate member Adam Kaufman to sit on this application in the absence of member Christina Oster.
4. The Property is located in the Agricultural I (AR-I) District.
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. TESTIMONY

Attorney Stephen Kenney was present along with the applicants. He explained that this parcel has a good deal of wetlands. The southwest corner of the lot in the back is the only area that is suitable for placing the pool due to the presence of wetlands and the slope of the property. There is no other place to put the above ground pool. He noted that the pool will encroach 6 feet into the required 15 foot setback. He noted that the hardship to the applicants if the variance is not granted is that the pool cannot be constructed. The pool will not materially affect the public good, as there are no abutters in the back of the lot, and the area is heavily wooded. It will not substantially derogate from the intent of the setback, since I will not overly burden the back yard and is not intrusive. He noted that the applicants have filed with the Conservation Commission. Member Phenegar asked about the area on the plan denoted as "stock pile area", the applicant, Mr. Coates, stated that it is a wood pile.

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.

Chapter 40A Variance Criteria

The Board made the following findings with respect to the variance criteria.

1. The permit granting authority shall grant with respect to particular land or structures a variance from the terms of the applicable zoning by-law if the permit granting authority specifically finds that a strict enforcement of the by-law would result in a practical difficulty.

The Board finds that there is a practical difficulty, as there is no other area of the lot to place the pool.

2. In making its determination, the permit granting authority shall weigh the benefits to the appellant or petitioner and to the public interest, including the interest in supporting

the production of housing against the detriment to the public health, safety and welfare of the neighborhood, and may also consider:

(i) whether the practical difficulty relates to soil conditions, shape or topography of such land or structures;

The Board considered that the presence of extensive wetlands, plus the slope, relates to the practical difficulty.

(ii) whether the strict enforcement would impose a financial hardship on the appellant or petitioner;

The Board considered that the cost to level another area of the lot for a pool would be a financial hardship.

(iii) whether the benefit sought by the appellant or petitioner can be achieved by some other method feasible for the appellant or petitioner to achieve; and

The Board considered that it would be infeasible to construct the pool elsewhere.

(iv) whether the practical difficulty was self-created.

The Board considered that the practical difficulty was not self-created.

The Board finds that the Applicant has demonstrated through evidence submitted, including the plot plan, that it has met all the required Variance Decision Criteria under Chapter 40A, §10.

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 Applicants a variance from the rear yard setback to allow construction of the pool 9 feet from the lot line, in accordance with the Plan submitted and application, and subject to the following Conditions.

1. This variance 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.

2. 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

3. Pursuant to G.L. c. 40A, §10: "If the rights authorized by a variance are not exercised within 2 years after the variance was granted, which shall not include the time required to pursue other entitlements necessary to construct the project authorized by the variance or await the determination of an appeal referred to in section 17, 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 those rights for a period not to exceed 2 years; and provided further, that the application for an extension shall be filed with the permit granting authority prior to the expiration of the 2-year period. If the permit granting authority does not grant an extension within 30 days of the date of application therefor and, upon the expiration of the original 2-year period, such rights shall only be reestablished only after notice and a new hearing pursuant to the provisions of this section."

4. The proposed pool shall be built in compliance with the documents submitted to the Board as listed in Section V of 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 pool or further encroach on any required setback may be allowed by the Building Commissioner as field changes.

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. Application dated June 22, 2026

2. "Proposed Pool Plan of Land in Medway MA dated May 29, April 21, 2026 by Colonial Engineering, Inc.

B. Other information submitted to the Board:

1. Email from Conservation Agent dated June 24, 2026

2. "Plan of Land in Medway, MA", prepared for Red Wing properties dated September 26, 2012, rev. January 7, 2013, for Red Wing Properties

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, the Zoning Board of Appeals hereby GRANTS the Applicants a Variance from Table 2, Dimensional and Density Regulations, to reduce the required rear yard setback for the construction of an above ground pool, in accordance with the Plans and application and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	Aye	_____
Gibb Phenegar	Aye	_____
Joe Barresi	Aye	_____
Tom Emero	Aye	_____
Adam Kaufman	Aye	_____

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms 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 20 days after the filing of this notice in the office of the Medway Town Clerk.

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.

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 at the Norfolk Registry of Deeds, shall be furnished to the Board.

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