

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@medwayma.gov

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

20 Day Appeal
July 27, 2026
RECEIVED TOWN CLERK
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DECISION
VARIANCE -GRANTED WITH CONDITIONS
2 BULLARD CIRCLE

Applicant(s): Elias Cordova

Owner: Elias Cordova and Ilirjana Cordova

Location of Property: 2 Bullard Circle (Assessor Parcel ID: 06-008).

Approval Requested: The application is for the issuance of **variances** from Table 2, Dimensional and Density Regulations, for front and rear yard setbacks to allow the construction of an addition to the back of the house, and of a new garage in the front setback.

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

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

Date of Decision: July 1, 2026

Decision: **GRANTED WITH CONDITIONS**

I. PROCEDURAL HISTORY

1. On May 12, 2026, the Applicants filed for the issuance of **variances** 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 May 20 and May 27, 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 June 3, 2026. After hearing testimony, the hearing was continued at the applicant's request to July 1, 2026, and the hearing was closed the same evening.
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 petitioner and his wife, the owners of the property, and explained that Mr. Cordova was seeking a rear yard setback variance from the required 15 feet to 14.6 feet for the addition to the home. The second variance requested is a front yard setback variance from the required 35 feet to .18 feet. He explained that Mr. Cordova obtained a building permit for the rear addition and poured the foundation. When it was surveyed, the plan showed that the addition was poured .6 feet closer to the lot line than the zoning by law allows. The second request is for the new garage; Mr. Cordova applied for a building permit online from a company called Biberkipermits.com. He thought that he had received a valid building permit, until he was informed by the building inspector that no permit had ever been applied for nor granted by the Town of Medway. The foundation that had already been poured was in violation of the Zoning Bylaw.

As to the requirements for variances, Mr. Kenney explained that the shape of the lot and the soil conditions necessitate the location of the proposed structures on this lot. The property is a rectangular shaped lot that runs from Summer Street westerly along Bullard Circle. Bullard circle is a 40-foot-wide private way. He stated that the land closer to Summer Street is wetlands and further in there is a septic system which is approximately in the center of the lot. The petitioner's home is on the right side of the lot. The existing free-standing structure on the lot was formerly a garage for the single-family residence and is now being used as a home office area. Mr. Kenney submitted a septic design plan for the board's review. The lot is not buildable anywhere other than on the right side of the lot where the garage foundation was poured.

Mr. Cordova obtained a foundation permit on July 23rd, 2025, for an addition. The original plot plan showed the addition to be 15.1 feet from the side lot line, but after construction the foundation for the addition was built 14.4 feet from the side lot line. This was discovered approximately on May 1, 2026, and the Building Commissioner issued a stop work order. As to the new garage, Mr. Cordova believed that he was in compliance with the zoning setback requirements, as it appears that the garage is being constructed approximately 20 feet from Bullard Circle, because Bullard Circle is constructed as simply a driveway and not 40 feet wide as shown on the subdivision plan.

Attorney Kenney continued that there is substantial hardship, financial and otherwise created by the circumstances. Mr. Cordova has poured two foundations, one where he believed he was in conformity with the zoning bylaw and is .6 feet closer to the side lot line than the Zoning Bylaw allows. The second where Mr. Cordova believed he had received a building permit from the Town through an online company which proved to be a scam. Mr. Cordova would now have to remove both foundations or at a minimum cut back the foundation for the home to comply with the Zoning Bylaw. The petitioner would not be able to construct the garage in the proposed location and would have to be constructed in his back yard, if constructed at all. Desired relief may be granted without substantial detriment to the public good as the first variance request of .6 feet would not in any way be detrimental to the public good. The variance request of a new garage which is approximately 20 feet off of where Bullard Circle exists on the ground would not adversely affect members of the public or the neighbors of Bullard Circle because it does not encroach upon any of the neighbors to a great degree where it would be detrimental to the use of their property. The closest single-family residence is across the private way of Bullard Circle. Joe Avellino of 3 Bullard Circle was present and stated that the road was built in 1975 and is just a dead end. He was in favor of the petition.

Some Board members noted that the petitioner stated that he is in the construction field, and the members felt that he should have known the correct procedure. He had properly obtained a permit for the house addition, and had contacted the Town for the inspections of the excavation and concrete pour for the addition. All the members were in agreement that the error of a few inches on the house addition is de minimus, and will not have an adverse effect on the neighbors or derogate from the Zoning Bylaw. Unfortunately, the excavation and concrete pour for the proposed garage took place after the inspections of the addition foundation, so the Town's Building Inspector did not have notice of it until after it was completed. In addition, the petitioner did not have the lot fully surveyed until after the fact. Members White, Phenagar, and Barresi noted that the survey should have been done prior to start of work, and that the petitioner should have been aware of the requirements for permits and inspections. Member Oster stated it was an unfortunate situation where the petitioner believed he was proceeding correctly. Mr. Emero noted that the garage for the house across Bullard Circle from this property appears to be constructed within the street's cul-de-sac. Further, where Bullard Circle is a small, dead end street with few houses, he questioned whether granting this variance would cause any detriment or create any precedent.

Some of the members indicated that additional information as to how the garage for the property across the street had been built, and other information regarding the neighborhood could be helpful. The petitioner asked if the public hearing could be continued to July 1st.

On July 1st, attorney Kenney the new materials that had been submitted to the Board. The Overlay Plan was shown on the screen. This is an overlay of the property lines and road layout lines for Bullard Circle, overlaid on an aerial photo, put together using MassGIS. It shows that the garage and pool for the property on the other side of Bullard Circle are constructed partially in the road layout, specifically the cul-de-sac. The cul-de-sac was never constructed on the ground. The pavement on Bullard Circle is only about the width of a typical driveway. The Board also reviewed the updated site plan, and the members agreed that the new information provided by the applicant addressed their concerns regarding potential impacts on the neighbors.

The members also stated that this is a unique situation, in that it is one of the first permanent private ways developed in town, all maintenance on Bullard Circle is the responsibility of the homeowners, the roadway pavement width is more akin to a driveway, and the pattern of development on the street is similar to the Plan before the Board. The members stated that the granting of these variances in this situation is unique and does not set a precedent.

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.

A. Section 6.1 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 found the wetlands on the front part of the lot, plus the placement of structures and the well, are unique and there is no other place to put the proposed garage. The Board considered the encroachment of a few inches in the rear setback by the addition to the house is de minimus.

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 found that to move the foundation for the addition a few inches, and for the garage a substantial distance, would be a financial hardship for no appreciable gain. The garage is located almost 20 feet from the paved portion of Bullard Circle

3. Desirable relief may be granted without substantial detriment to the public good, and

The Board found that the rear setback variance is de minimus, and neither it nor the garage will cause substantial detriment. The overlay plan submitted by the applicant shows that other properties on this short street are close to or in the road layout, but outside the paved way, and this garage will be further back than some of those existing structures.

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

The Board found that the rear setback variance is de minimus. For the garage, it is set back from the pavement more than would be required for a side setback, thus not substantially derogating from the purpose of the zoning setback.

The Board finds that the Applicant has demonstrated through evidence submitted, including the Plan, and the supplemental materials, that he has met all the required Variance Decision Criteria under Section 6.1.

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 Applicant, Elias Cordova, variances for front and rear yard setbacks to allow the construction of an addition to the back of the house, and of a new garage in the front setback in accordance with the Plan (last revised July 1, 2026) and application, and subject to the following Conditions. The variances granted are for the rear yard setback from the required 15 feet to 14.6 feet for the addition to the home, and a front yard setback variance from the required 35 feet to .18 feet for construction of the garage, all as shown on the Plan and described in the application materials.

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 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 to 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.”

4. The applicant shall install a dry well or other approved stormwater system for the proposed new structure (garage) and the addition to the house which infiltrates all roof run off in to the ground. Any and all gutters and downspouts shall not be placed in a manner to allow discharge of stormwater to the street or toward abutting properties.

5. The proposed addition to the house and the proposed new structure (garage) 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 addition or garage or further encroach on any required setback may be allowed by the Building Commissioner as field changes.

6. There shall be no tracking of construction materials onto any public way. Sweeping of roadways adjacent to the site shall be done as needed to ensure that any loose gravel and dirt is removed from the roadways. 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.

7. Owner must confirm in writing that there is no connection to the Town’s stormwater system, direct or indirect, such as sump pumps, perimeter drains, roof drains, or site drainage, prior to occupancy permit.

8. Applicant shall work with the Town’s Building Commissioner to assure that all required permits, inspections, and approvals for the construction of the garage and the addition are obtained and complied with.

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 January 29, 2026
2. “Existing Foundations Plan of Land in Medway MA” dated April 21, 2026 by Colonial Engineering , Inc.
3. Architectural Renderings of proposed addition and proposed garage

The applicant also submitted:

1. “Addendum to Variance Form”, filed by Attorney Stephen Kenney on June 1, 2026
2. Bullard Circle Overlay Map using MassGIS

3. Updated site plan, “Existing Foundations Plan of Land in Medway MA” dated April 21, 2026, last revision July 1, 2026 by Colonial Engineering , Inc. (herein “the Plan”)

B. Other information submitted to the Board:

1. Stop Work Order from J. Ackley, Building Commissioner to applicant
2. Email from J. Ackley, Building Commissioner, dated May 15, 2026 with attached Building Permit Card and Septic Design Plan
3. Email from N. Lynch, Deputy Director, DPW, dated May 15, 2026
4. Email from J. Thompson, Town Planner, dated May 15, 2026

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, the Zoning Board of Appeals hereby GRANTS the Applicant, Elias Cordova, variances from Table 2, Dimensional and Density Regulations, for front and rear yard setbacks to allow the construction of an addition to the back of the house, and of a new garage in the front setback, in accordance with the Plan and application and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	Aye	_____
Gibb Phenegar	Aye	_____
Christina Oster	Aye	_____
Tom Emero	Aye	_____
Joe Barresi	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.

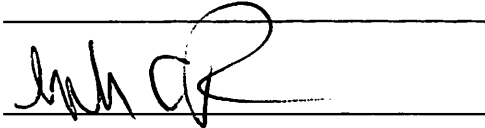
Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within 20 days after the filing of this notice in the office of the Medway Town Clerk.

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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Christina Oster	Aye	
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