



TOWN OF MEDWAY
BUILDING DEPARTMENT
155 Village Street
Medway, Massachusetts 02053
508.533.3253

Jonathan Ackley
Building Commissioner &
Zoning Enforcement Officer
JAckley@MedwayMA.Gov

CERTIFIED MAIL & ELECTRONIC DELIVERY

Date: August 6th, 2026

To: Nancy Dubin & David Dubin, 1070 Washington Street, Holliston, MA 01746

Re: Formal Zoning Determination — Request for Agricultural Exemption (M.G.L. c. 40A, § 3)

Location: 0-R & 12 Waterview Dr, Medway, MA 02053 **Zone:** AR-2 **Size:** 12.1 Acres

Reference: Request for Determination of Agricultural Exemption, Dated July 20th, 2026.

Prior Correspondence: Email to Attorney Cannon, Dated June 25th, 2026.

Prior Correspondence: Email with Nancy Dubin, Dated September 16th, 2025, including "Farm Description" from Nancy and David Dubin, Received September 16th, 2025

I. BACKGROUND & PRIOR CORRESPONDENCE

Prior to the submission of the formal Request for Determination, this office engaged in preliminary correspondence with Nancy Dubin starting on **September 16th, 2025** (attached hereto as **Enclosure 1**). In that communication, this office requested specific operational details related to the proposed educational use at this property—such as participant capacity, and expected revenue generated from educational programs vs. farming — required under Massachusetts land use law to demonstrate that educational and event activities could qualify as protected accessory uses if it were determined that the proposed farming uses were protected as exempt agricultural uses.

Additionally, this office engaged in correspondence with Attorney Ted Cannon, on **June 25th, 2026** (attached hereto as **Enclosure 2**), where additional information was requested detailing how the educational programming at this property will be incidental and subordinate to the agriculture use.

Your subsequent formal submittal dated **July 20th, 2026**, did not include these essential operational parameters.

To date, this office has not received the requested operational details related to educational programming at this property to show that it is customarily incidental and subordinate to an agricultural use. Nor has this information been provided relating to uses that seem to be described as agritourism in the July 20th, 2026, submission. Consequently, this determination is rendered based on the administrative record as presently constituted.

II. DETERMINATION

This office has reviewed your formal request for an agricultural zoning exemption under **M.G.L. c. 40A, § 3** for the proposed combined use of the property as a farm and interactive educational program venue consisting of day camps and events and/or uses that may be described as agritourism. (attached hereto as **Enclosure 3**),

Based upon the submittal presented, the requested exemption for the proposed use as a whole is **DENIED**. As currently presented, the proposed use and development of this property does not qualify as an exempt agricultural use under M.G.L. c. 40A, § 3 and may not proceed as-of-right.

III. FINDINGS & LEGAL REASONING

1. **Failure to Establish Primary / Accessory Relationship:** Under M.G.L. c. 40A, § 3, land and structures are exempt from local zoning prohibition only if their *primary purpose* is commercial agriculture, and any secondary uses are strictly *accessory* (incidental and subordinate) to that farming operation. The applicant bears the burden of proof. Your submittal lacks the necessary operational facts—such as visitor capacity, event frequency, expected revenue comparison, and facility footprint—to establish that the proposed day camps, events, and other secondary uses would be subordinate accessory uses to the primary farming activities (assuming the primary farming uses would be exempt, regarding which I have not made a determination).
2. **Inapplicability of Educational Exemption:** Because the proposed educational programs and day camps are operated by a for-profit entity, Paragraph 2 of M.G.L. c. 40A, § 3 (the "Dover Amendment") does not apply to exempt the educational components.

IV. APPEAL RIGHTS

Pursuant to **M.G.L. c. 40A, §§ 8 and 15**, any person aggrieved by the decision or determination of the Building Commissioner/Zoning Enforcement Officer may appeal to the **Medway Zoning Board of Appeals** within **thirty (30) days** from the date of this determination.

Sincerely,



Jonathan Ackley

Building Commissioner & Zoning Enforcement Officer
Town of Medway, Massachusetts

Enclosures:

- **Enclosure 1:** Prior Correspondence and Farm Description, Dated September 16th, 2025
- **Enclosure 2:** Prior Correspondence, Dated June 25th, 2026
- **Enclosure 3:** Request for Determination, Dated July 20th, 2026

cc: Town Clerk, Zoning Board of Appeals, Planning Board, Town Counsel, Atty. Ted Cannon



Re: [External] 12 Waterview Medway

From NANCY DUBIN <[REDACTED]>
Date Tue 10/7/2025 4:25 PM
To Jonathan Ackley <jackley@medwayma.gov>

Good Afternoon !

Sorry for the delayed response, We were away last week !

I want to clarify all of this with the Mass Farm Bureau Lawyer to be sure we are on the same page . I really don't see tours and educating the public, children on animals as an incidental item ,as say .. selling ice cream would be. I see educating and exposing the public to animals as a main by product of our keeping and raising of farm animals (as eggs are a to keeping chickens) We do not plan on operating year round , we do not Plan on having open hours daily . Everything will be booked, planned programs with very limited and planned traffic flow . We will also be taking the animals off property to events. This past spring we even went to a Medway Park and Rec program .

As you stated , I am allowed to keep the farm animals there. So I would ,at the very least ,like to start the process of setting up the living areas for our animals to

Move onto the property. I didn't send info over to you in April as I have been waiting on my land surveyor to complete the plans and wanted it all together .

We can start with having the animals go off property to events as we navigate through any on property programs .

We are excited to move forward and be a part of the Medway community . Currently there are no Farms with animals where the public can send their kids for educational interactions .

Thank you for all of your time !

Nancy and Dave

On Oct 1, 2025, at 9:45 AM, Jonathan Ackley <jackley@medwayma.gov> wrote:

Note: As of July 1st, 2025, all Town of Medway emails have changed to @medwayma.gov. Please edit your contacts to reflect this change.

Hi Nancy,

I have been in touch with Town Counsel on this matter and we would like to request some additional information regarding the proposed educational aspects of the farm. While your proposed farming operations do qualify for an agricultural exemption, it must be the primary use of the property, with the educational aspects being clearly incidental to and accessory to the farming. Some factors that may aid in determining whether the educational aspects are incidental may be the area of the property that will be used for the educational uses compared to the farming uses, the number of visitors expected related to the educational uses, the expected proportion of revenue that will be generated by the educational uses as compared to the farming uses.

Could you please produce a response that summarizes how farming will be the primary use and the educational aspects will be clearly subordinate to the farming?

Thank you.

Jonathan Ackley

Building Commissioner &
Zoning Enforcement Officer
Town of Medway Building Dept.
155 Village Street, Medway MA
508-533-3253

www.MedwayMA.gov

From: NANCY DUBIN <[REDACTED]>
Sent: Tuesday, September 16, 2025 11:33 AM
To: Jonathan Ackley <jackley@medwayma.gov>
Cc: Jeremy Thompson <jthompson@medwayma.gov>
Subject: Re: [External] 12 Waterview Medway

Thank you for confirming receipt !

On Sep 16, 2025, at 11:30 AM, Jonathan Ackley <jackley@medwayma.gov> wrote:

Note: As of July 1st, 2025, all Town of Medway emails have changed to @medwayma.gov. Please edit your contacts to reflect this change.

Hi Nancy,

Thanks for sending this. We will review and be in touch.,

Take care.

Jonathan Ackley

Building Commissioner &
Zoning Enforcement Officer
Town of Medway Building Dept.
155 Village Street, Medway MA
508-533-3253
www.MedwayMA.gov

From: NANCY DUBIN <[REDACTED]>
Sent: Tuesday, September 16, 2025 11:09 AM
To: Jonathan Ackley <jackley@medwayma.gov>
Subject: [External] 12 Waterview Medway

[You don't often get email from [REDACTED]. Learn why this is important
at <https://aka.ms/LearnAboutSenderIdentification>]

Good Morning !

I stopped in to see you last week but you were out ! Hope you had a nice weekend !

Attached is our farm description as requested , Please call me with any questions ! I figured email is better for your busy schedule

I know my land surveyor stopped in with our plans.

As I initially explained , Our farm will be centered around far animals , growing and educating children . The word "Petting Farm" can be a very electric word leading to a visual of Giraffes, zebras and non stop traffic for open hours . We will remove the word "petting farm " , that are is for animal demonstration and interaction as an educational avenue.

Please call me or set up any time to review

Nancy and David Dubin

[REDACTED]

Please remember when writing or responding, the Massachusetts Secretary of State has determined that e-mail is a public record. The information in this e-mail, including attachments, may contain privileged and confidential information intended only for the person(s) identified above. If you are not the intended recipient, you are hereby notified that any dissemination, copying or disclosure of this communication is strictly prohibited. Please discard this e-mail and any attachments and notify the sender immediately.
<Medway Description 2025 pdf.pdf>



12 Waterview Medway , Mass. 02053

We recently purchased 12 Waterview Dr. In Medway . We are excited to get our plans going for this 61A Property focusing on Farming ~ A cut Flower farm, vegetables ,raising/keeping animals, Chickens for Eggs, Horses for Horsemanship Classes/riding ,Agri ~Educational programs, Summer camps and Agri ~ Tourism events . A complete Agri~ Educational Farm to educate children and their families on Farm Livestock , how to care for them , interact with them and hands on how a farm works !

We will not be open to the public on a daily basis . All programs will be booked : camps , educational/interactive classes, events and one on one educational sessions.

We currently own and operate a 61A property in Holliston , Mass., Willow Brook Farm . We have not determined yet if the name will carry over or if the Medway farm will have a new name.

Livestock we will Have on the Property ~

Miniature Highland Cows
Chickens for eggs (no roosters)
Nigerian Dwarf Goats
Sheep (will be shorn for fiber)
Llamas (will be shorn for fiber)
Alpacas (will be shorn for fiber)
6 Horses for hands on learning hands on Equine basics
Mini Pigs - No more then 2
Donkeys
Miniature Horses
Rabbits
Sebastopol Geese

We focus on smaller breeds, with some being on the national conservatory list
Our Housing for Animals will be raised and individual small buildings.
Our Manure will be trucked away ~ Loaded daily into a Trailer and taken away weekly

Please call me with questions !

Nancy and David Dubin





Exempt Use Review Application - 0R and 12 Waterview Drive

From Jonathan Ackley <jackley@medwayma.gov>

Date Thu 6/25/2026 4:04 PM

To [REDACTED]

Cc [REDACTED] Barbara Saint Andre <bsaintandre@medwayma.gov>; Jeremy Thompson <jthompson@medwayma.gov>

Bcc [REDACTED]

4 attachments (18 MB)

1. Exempt Use Application v2.pdf; 2. Site Plan - 2026-05 29.pdf; 8. Project Narrative.pdf; 9. Project Narrative - Exempt Status.pdf;

Good afternoon, Attorney Cannon,

I am reaching out regarding the proposed agricultural use at this property to request some additional information that will aid in my review for zoning compliance, in accordance with G.L 40A section 3. Specifically, I am trying to determine if the primary use of this property is indeed agricultural, or if its educational, as the application and supporting documentation submitted appears to state both. As you are aware, the primary use must be agricultural, and the educational and residential uses must be clearly accessory to the agricultural use.

The Zoning Bylaw defines accessory uses as uses that are "customarily incidental and subordinate to the principal use." Please provide further information to support your position that the accessory educational and residential uses will satisfy this definition. In particular, in regard to the educational uses, how they will be "subordinate" to the agricultural use. Helpful information may be the projected hours of operation and revenue for each use, but feel free to provide any information that may support your position. In regard to the residence, please provide further support or information relating to your position that a person living on the site will "protect the farm and livestock", and how a person living on site will affect operation of the farm compared to a person not living on the site.

Lastly, I did have an additional question regarding the Building Code compliant use of tents onsite as shown on the site plan. There are typically two types of tents, permanent and temporary, each with their own requirements and design parameters under the Building Code. Could you and/or the property owner please clarify whether the proposed tents will be set up permanently or will be temporary tents to be setup and taken down seasonally. I plan to provide additional comments regarding the code compliant installation once I know which style tent is proposed.

Thank you for your time.

Regards,

Jonathan Ackley
Building Commissioner
Town of Medway
155 Village Street
Medway, MA 02053
508-533-3253 (office)
508-321-4928 (direct)
Jonathan.Ackley@medwayma.gov



Doherty, Dugan, Cannon,
Raymond & Weil, P.C.

Edward V. Cannon, Jr., Esq.
[Redacted]

Enclosure 3

124 Grove Street, Suite 220
Franklin, MA 02038
TEL. NO. [Redacted]
FAX NO. [Redacted]
<https://ddcrwlaw.com>

July 20, 2026

Certified Mail No. 9589 0710 5270 0067 8238 61
Return Receipt Requested

Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
Town of Medway
155 Village Street,
Medway, MA 02053

Re: Request for Determination of Agricultural Exemption
Applicant: Dubin, Nancy and David
Locus: 0-R and 12 Waterview Drive, Medway, MA 02053

Dear Commissioner Ackley:

As you know this office is representing the above applicants concerning the use of their farm off Waterview Drive in Medway. Please accept this as a formal request for a determination from you that the applicants' proposed agricultural use is an exempt use pursuant to M.G.L. Chapter 40A, Section 3. At this time the applicants are not seeking a determination from you concerning the exempt status of any educational use, but the applicants are reserving all their rights to seek such a determination at a later date.

The proposed farm will include a single-family residence on a small portion of the 12.1 acre site, which will be occupied by the farmer, who will manage and work on the farm. A copy of sheet C-3 of the proposed Site Plan is enclosed herewith for your reference.

The proposed agricultural activities will take place on the vast majority of the site, at least ten times the area used for the farmhouse, and will consist of the following:

- In a large field taking up most of the eastern portion of the site, planting and harvesting flowers and vegetables to be sold;
- All of the remainder of the farm that is not wetlands will be used for purposes of keeping and raising livestock, which is intended to include: chickens for eggs, horses for horsemanship, riding and equestrian care activities, miniature highland cows, Nigerian dwarf goats, sheep, llamas, alpacas, mini pigs, donkeys, miniature horses, rabbits, and Sebastopol geese.
- The farming operations will include educational and interactive agricultural programs, agricultural day camps and agricultural events to help visitors learn about farming and appropriate care of the animals.



Jonathan Ackley, Building Commissioner &
Zoning Enforcement Officer
July 20, 2026
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The income generated by farming operations from animal products, riding, programs, day camps and events will far exceed \$1,000 per acre per year.

"Agriculture" is defined as "the science or art of cultivating the soil, harvesting crops, and raising livestock." "Livestock" is defined as "animals of any kind kept or raised for use or pleasure." *Building Inspector of Mansfield v. Curvin*, 22 Mass.App.Ct. 401, 494 N.E.2d 42, 43 (1986).

"In *Dailey v. Tinkham*, Misc. Case No. 237153 (Land Ct. 1997), and in *Jarvis v. Knowles*, Misc. Case No. 234576 (Land Ct. 1998), the Land Court ruled that the concurrent use of land for both residential and agricultural purposes does not negate the 'primary use' protection afforded by §3. If concurrent residential use could negate the Zoning Act's protection for agricultural uses, family farms throughout the Commonwealth would be stripped of their status." Bobrowski, Mark. *Handbook of Massachusetts Land Use and Planning Law*. 6th ed., New York, Wolters Kluwer, 2024, Section 4.03, p. 4-6, Note 17.

For your reference enclosed please find a current copy of Article 28 of the Town of Medway General Bylaws "Right to Farm". Please note that Article 28 states that "farming" includes "conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to the marketing and agricultural output or services of the farm." - p. 70.

Please let me know if you have any questions or would like any additional information.

Thank you for your time and attention to this matter.

Respectfully,

Edward V. Cannon, Jr.

Edward V. Cannon, Jr.

EVC

ecc: Barbara J. Saint Andre, Dir. Of Comm. & Eco. Dev.
Dan Merrikin
Nancy Dubin
David Dubin

