

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member
Carol Gould, 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

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MAY 18 '22 AM 8:28

20 Day Appeal
June 2, 2022

DECISION
REQUEST FOR MODIFICATION OF
VARIANCE AND SPECIAL PERMIT
14 FRANKLIN STREET

Applicant(s): Lynne Tatevosian
14 Franklin Street
Medway, MA 02053

Location of Property: 14 Franklin Street (Assessor Parcel ID: 57-078).

Approval Requested: The application is for a **modification** of the frontage variance and special permit granted on August 7, 2019, which allowed the construction of a two-family dwelling; the modification is requested to change the shape of the lot by creating a non-buildable Parcel A with about 5,395 sq. ft. along the northern border of the lot.

Members Participating: Brian White (Chair), Gibb Phenegar (Vice Chair), Joe Barresi (Member), Tom Emero (Member)

Members Voting: Brian White (Chair), Gibb Phenegar (Vice Chair), Joe Barresi (Member), Tom Emero (Member)

Date of Decision: May 4, 2022

Decision: **GRANTED**

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Date of Decision: May 4, 2022

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I. PROCEDURAL HISTORY

1. On April 4, 2022, the Applicants submitted an application for a modification to the Board's decision of August 7, 2019, which had approved a special permit under Section 5.4, Table 1.C of the Zoning Bylaw, allowing the construction of a two-family dwelling that has the exterior appearance of a single family dwelling, and a variance from Section 6.1 Table 2 of the Zoning Bylaw to allow for construction of the two-family dwelling on a lot with 89.31 feet of frontage where 150 feet is required. That decision is recorded at the Norfolk Registry of Deeds at Book 37108, Page 442. The original 2019 decision was modified by decision of the Board dated March 18, 2020 recorded at the Norfolk County Registry of Deeds at Book 38126 Page 185. The current application is for a further requested modification to change the shape of the lot by creating a non-buildable Parcel A with about 5,395 sq. ft. along the northern border of the lot.
2. Notice of the public hearing was published in the MetroWest Daily News on April 20, 2022, and April 27, 2022, 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 4, 2022. The hearing was closed the same evening.
4. The property is located in the Agricultural Residential II (AR-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 frontage requirement is 150 feet. Two-family dwellings are allowed by special permit.
5. The Board notified Town departments, boards, and committees of this application. The Board did not receive any comments.
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

The applicant, Lynne Tatevosian, stated that she wanted to create a non-buildable Parcel A from a portion of her lot, as shown on the plan she submitted, so that she could convey it to the owners of the abutting property, the Santosussos. The Santosusso's house is currently at the minimum side lot setback, so conveying Parcel A would give them some side yard area. The members agreed that the conveyance of Parcel A, in the north corner of the lot, does not affect the variance for frontage or the special permit for the two-family dwelling that were previously granted by the Board. Ms. Saint Andre explained that the prior decisions for 14 Franklin Street are based on the plans that were previously submitted, so a modification is necessary to make sure there are no issues with the change in the lot. She noted that if Parcel A is conveyed to the abutter, the property will have about 40,774 square feet, well in excess of the 30,000 square feet required for construction of a two-family dwelling.

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.

The Board incorporates its findings from the original 2019 decision and the 2020 modification and finds that the proposed modification of the size of the lot meets the requirements for modification of the special permit and variance. The original decision and the 2020 modification required the applicant to construct the two-family dwelling in accordance with the plans that had been submitted, including plans showing the lot on which the two-family dwelling would be constructed. Those plans show a lot, labeled “Lot 1 and 2” with 46,103 square feet of area. The Modified Plan submitted with this application shows a portion of the property carved out to create a new Parcel A, which will be a non-buildable lot with no frontage and approximately 5,359 square feet. The applicant stated that her intent is to convey Parcel A to the owners of the abutting property so that they will have a larger lot. The Zoning Bylaw, Section 6.1 Table 2, requires a minimum of 30,000 square feet for construction of a two-family home. If Parcel A is conveyed to the abutter as intended, the remaining lot, Lot 3 as shown on the Modified Plan, will still have sufficient square footage (40,744 square feet) for the two-family dwelling that has been constructed on the Lot. The frontage of the applicant’s property will not be affected.

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, Lynne Tatevosian a **MODIFICATION** to the special permit and variance granted August 7, 2019, under Section 5.4 Table 1.C of the Zoning Bylaw, and Section 6.1 of the Zoning Bylaw, as modified by the Board’s decision of March 18, 2020. This Decision will modify the previous decisions of this Board as set forth in the application, to allow the creation and conveyance of Parcel A as shown on the Modified Plan without affecting or invalidating the special permit and variance, and subject to the **CONDITIONS** herein.

All provisions of the original decision dated August 7, 2019 and as modified by the decision of March 18, 2020 continue in effect, including all conditions, except as modified by this decision, and are incorporated herein as if fully set forth.

V. INDEX OF DOCUMENTS

A. The request for modification included the following plans and information that were provided to the Board at the time the application was filed:

1. Plan titled “14 Franklin Street Approval-Not-Required Plan of Land,” by Colonial Engineering, LLC, dated March 14, 2022. (the “Modified Plan”)

VI. VOTE OF THE BOARD

By a vote of 4 – 0 on a motion made by Gibb Phenegar and seconded by Joe Barresi, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Lynne Tatevosian, a **MODIFICATION** to the variance and special permit granted August 7, 2019 as modified by decision dated March 18, 2020, modifying the previous decisions of this Board to allow the creation and conveyance of Parcel A as shown on the Modified Plan, a copy of which is attached hereto, without affecting or invalidating the special permit and variance, and subject to the **CONDITIONS** herein.

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

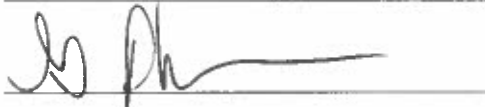



The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in General 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 General Laws c. 40A, Section 11, no variance or 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, in the case of a variance, 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; and in the case of a special permit, that 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed 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 certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

VI. VOTE OF THE BOARD

By a vote of 4 – 0 on a motion made by Gibb Phenegar and seconded by Joe Barresi, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Lynne Tatevosian, a **MODIFICATION** to the variance and special permit granted August 7, 2019 as modified by decision dated March 18, 2020, modifying the previous decisions of this Board to allow the creation and conveyance of Parcel A as shown on the Modified Plan, a copy of which is attached hereto, without affecting or invalidating the special permit and variance, and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	Aye	
Gibb Phenegar	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.

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n/f
KNOX ROGERS &
ALLISON JILL DELUCIA
ASSESSOR'S PARCEL 57-67
4 STAGECOACH WAY

DEMETRIOS & MELISSA GIALLOUSIS
ASSESSOR'S PARCEL 57-68
5 STAGECOACH WAY

ZONING REQUIREMENTS

- ZONE: AR-II
- AREA: 22,500 S.F.
- FRONTAGE: 150'[±]
- FRONT SETBACK: 35'
- SIDE SETBACK: 15'
- REAR SETBACK: 15'
- LOT COVERAGE STRUCTURES: 30%
- • LOT 3: 7.5%
- LOT COVERAGE IMPERVIOUS: 40%
- • LOT 3: 18.2%

*VARIANCE GRANTED FOR REDUCED LOT FRONTAGE

OWNER & APPLICANT
LYNNE TATEVOSIAN
14 FRANKLIN STREET
MEDWAY, MA 02053

ZONING DISTRICT
AGRICULTURAL RESIDENTIAL II (AR-II)

ASSESSORS PARCEL
57-078

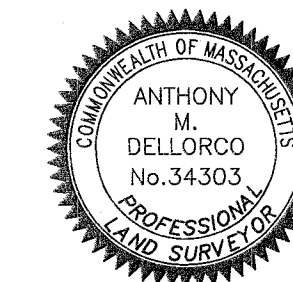
PLAN & DEED REFERENCE
DEED BOOK 36604, PAGE 172
PLAN BOOK 679 NO. 33

FOR REGISTRY USE

BEING A SUBDIVISION OF LOTS 1 & 2
SHOWN ON PLAN ENTITLED "PLAN OF
LAND IN MEDWAY, MA" PREPARED BY
COLONIAL ENGINEERING INC. AND DATED
JANUARY 14, 2019, REVISED JANUARY
17, 2019 INTO LOT 3 AND UNBUILDABLE
PARCEL A.

I CERTIFY THAT THIS PLAN HAS BEEN
PREPARED IN CONFORMITY WITH THE
RULES AND REGULATIONS OF THE
REGISTERS OF DEEDS OF THE
COMMONWEALTH OF MASSACHUSETTS

DATE: 3-14-22
Anthony M. DelMoro
REGISTERED LAND SURVEYOR



APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED.

DATE APPROVED: _____

MEDWAY PLANNING BOARD

PLANNING BOARD ENDORSEMENT DOES NOT CONSTITUTE A DETERMINATION OF COMPLIANCE WITH MEDWAY ZONING-BYLAWS.

NOTE: SUBJECT PROPERTY IS NOT CLASSIFIED AS CHAPTER 61A OR 61B.

NOTE: SEE DECISIONS FROM MEDWAY ZONING BOARD OF APPEALS DATED JUNE 20, 2018, AUGUST 7, 2019 AND MARCH 18, 2020 FOR FRONTAGE VARIANCE.

n/f
PAUL J. & MICHELLE
SANTOSUSSO
ASSESSOR'S PARCEL 57-81
2 FRANKLIN CREEK LANE

PARCEL A
5,359 S.F.
0.12 ACRES
100% UPLANDS
(NOT A BUILDABLE LOT)

LOT 3
40,744 S.F.
18.95 L.S.F.
0.94 ACRES
100% UPLANDS

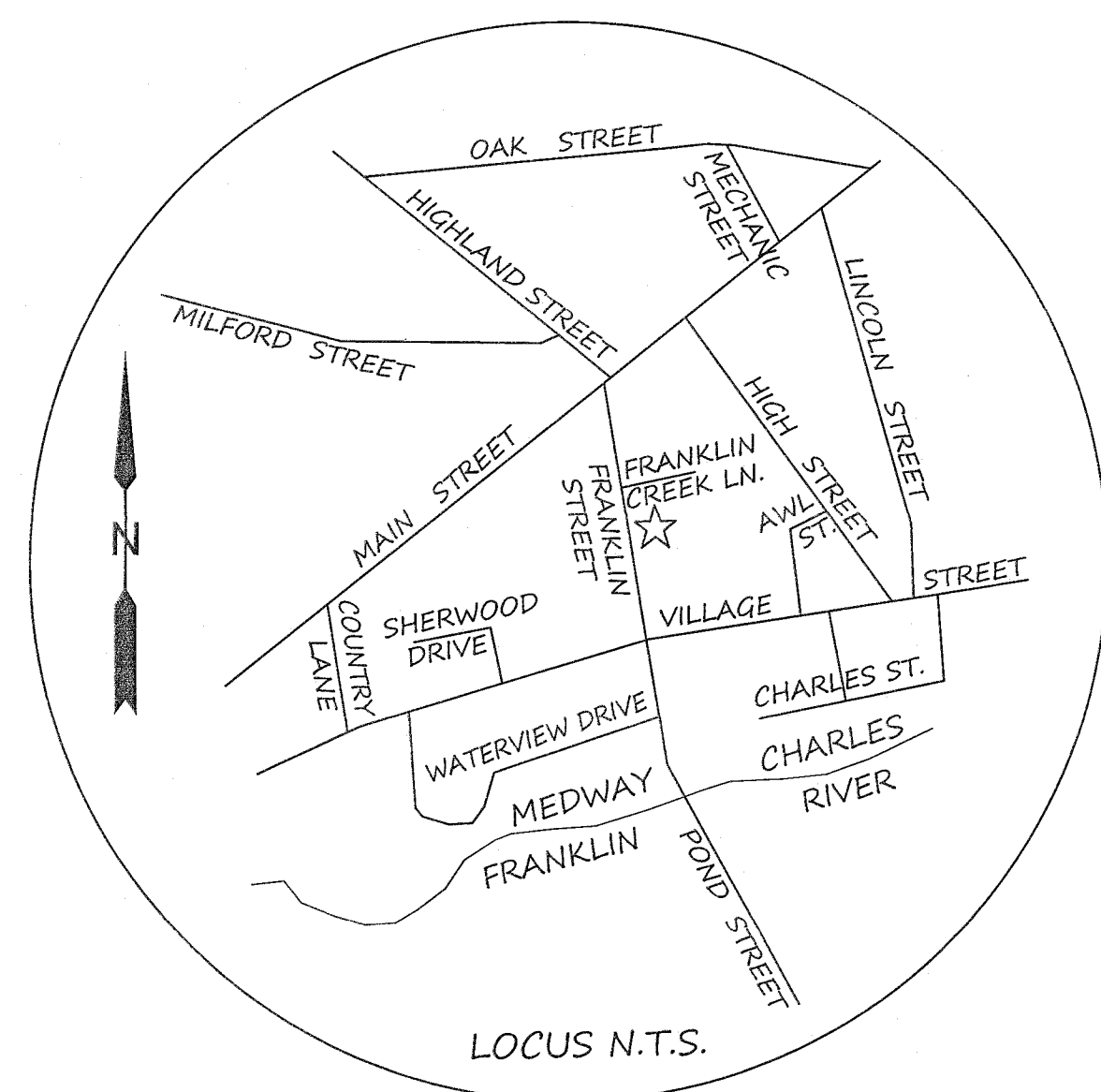
n/f
BETH & JOSEPH TUNNEY
ASSESSOR'S PARCEL 57-80
16 FRANKLIN STREET

n/f
JOSEPH & MICHELLE MELE
ASSESSOR'S PARCEL 57-77
12 FRANKLIN STREET

EXISTING
DRIVEWAY
EASEMENT
822 S.F.±

FRANKLIN (PUBLIC - SCENIC VARIABLE WIDTH) STREET

w/f
NATALIA CHEB
ASSESSOR'S PARCEL 57-125
11 FRANKLIN STREET

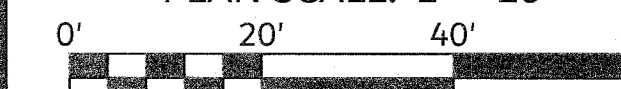


14 FRANKLIN STREET
APPROVAL-NOT-REQUIRED
PLAN OF LAND
IN
MEDWAY, MA

COLONIAL ENGINEERING, INC.

P.O. BOX 95
MEDWAY, MA 02053
508-533-1644

PLAN SCALE: 1" = 20'



SHEET 1 OF 1