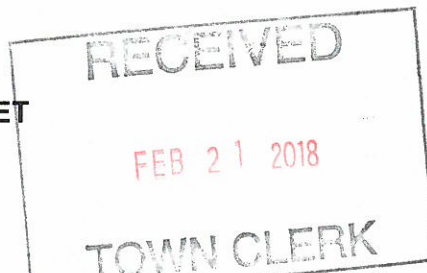




Town of Medway
ZONING BOARD OF APPEALS
155 Village Street, Medway, MA 02053

Eric Arbeene, Chair
Brian White, Vice Chair
Carol Gould, Clerk
Bridgette Kelly, Member
Rori Stumpf, Member

**DECISION
VARIANCES
180 VILLAGE STREET**



*20 day Appeal
March 13, 2018*

Date Application Filed: December 14, 2017

Applicant(s): John & Kathryn Regan ("the Applicants")
180 Village Street
Medway, MA 02053

Location of Property: The Project is located on a parcel of land in Medway located at 180 Village Street (Assessor Parcel ID: 60-178).

Approval Requested: Variances from Section 6.1 Table 2: Dimensional and Density Regulations of the Medway Zoning Bylaw to split one lot into two lots. Lot 1 would be 22,503 sq. ft. for an existing multifamily dwelling, requiring a variance from the required 30,000 sq. ft. Lot 2 would be 17,759 sq. ft., requiring a variance from the required 22,500 sq. ft. for a single family lot. The applicant also requests variances for the existing structures on Lot 2, which would not be within the required setbacks.

Members Participating: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Bridgette Kelly, and Rori Stumpf

Members Voting: Eric Arbeene (Chair), Brian White (Vice Chair), Carol Gould, Bridgette Kelly, and Rori Stumpf

Hearing Opened: February 7, 2018

Hearing Closed: February 7, 2018

Date of Decision: February 7, 2018

Decision: Granted



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I. PROCEDURAL HISTORY

1. On December 14, 2017, the Applicant's Representative filed a Variance application, pursuant to G.L. c. 40A, as amended, and the Medway Zoning Bylaw, in order to split one lot into two lots. Lot 1 would be 22,503 sq. ft. for an existing multifamily dwelling, requiring a variance from the required 30,000 sq. ft. Lot 2 would be 17,759 sq. ft., requiring a variance from the required 22,500 sq. ft. for a single family lot. The applicant also requests variances for the existing structures on Lot 2, which would not be within the required setbacks.
2. Notice of the public hearing was published in the Milford Daily News on January 17, 2018 and January 24, 2018, and notice sent by mail to all interested parties, and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on February 7, 2018. The Board closed the public hearing the same evening.
4. The Property is located in the Village Residential (VR) District. The front setback requirement is 20 feet and the side and rear setback requirements are 10 feet. The minimum lot area requirement for a single family home is 22,500 s.f. The minimum lot area for a two-family home is 30,000 s.f. The existing home is a multi-family building and is pre-existing nonconforming.
5. The Applicants were represented by Attorney Steve Kenney, of Kenney & Kenney, 181 Village Street, Medway, MA 02053.
6. The Board notified Town departments, boards and committees of this application. The Board received comments from Fire Chief Jeff Lynch.
7. 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

At the February 7, 2018 meeting, the hearing was opened by the Board. The Applicant's Representative provided an overview of the requested variances. He explained that the lot area was 40,662 s.f. and that the Applicant was requesting a total of five variances. However, three of the five variance requests are incidental to the request to "split" the lot into two lots, as some of the structures were pre-existing nonconforming and do not meet the required setbacks. Lot 1 would be 22,503 square feet, necessitating a variance from the required minimum 30,000 square feet lot size for a multi-family dwelling and Lot 2 would be 17,759 square feet, necessitating a variance from the required minimum 22,500 square feet lot size for a single family lot. If the Board granted the requests, the garage and barn on Lot 2 would most likely be moved or razed at the time that the lot was sold and a new home was built, however, the owners did not want to tear down the existing structures until such time that the lot was sold.

The Applicant's Representative continued to explain that there was a taking of land by Norfolk County on the property as Village Street and Holliston Street layouts were changed in 1936. The lot is a corner lot and had substantially more land taken than the surrounding properties. In addition, the lot is much larger than the surrounding properties, many of which pre-date zoning. The shape of the lot is triangular and has more than adequate frontage. "Splitting" of the lot would not create a lot that is uncharacteristic of the Zoning District.

The plan for the taking can be found in pl. 42 bk. 120 of 1936, plan showing the Relocation and Widening of Holliston Street.

The Applicants' intent would be to sell Lot 2 in order to provide for their retirement.

No member of the public spoke in favor or opposition of the requests.

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 and comments submitted by residents placed in the public record during the course of the hearings.

A. Variance Criteria

1. *Circumstances relating to the shape, topography, or soil conditions of the subject property, which do not generally affect other land in the zoning district.*
2. *Substantial hardship caused by the circumstances from Criteria A.1 when the Zoning Bylaw is literally enforced.*
3. *Why/how the grant of relief would not nullify or derogate from the intent of the Zoning Bylaw.*
 - a. The lot is of sufficient size, in comparison to other lots within the Village Residential Zoning District, that it would not be detrimental to be "split" into two lots, in accordance with the plans provided and attached hereto.
 - b. The existing structures on the lot do not meet the setback requirements for the Village Residential District, however, granting of the requested relief for setbacks in splitting the lot into two lots would not be detrimental as they are pre-existing nonconforming and no "new" nonconformities would be made.
 - c. The overall shape of the existing lot has been changed by the County's taking from January 1936.

The Applicant's representative has provided documentation in the Variance application form submitted with this application, and as explained during the hearing, to satisfy the requested Variances.

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 **GRANTS** the Applicant(s), John & Kathryn Regan, **VARIANCES** from Section 6.1 of the Zoning Bylaw in order to split the property at 180 Village Street into two lots. Lot 1 will be 22,503 square feet, with a variance from the required 30,000 square feet for a multi-family dwelling and Lot 2 will be 17,759 square feet, with a variance from the required 22,500 square feet for a single family lot. In addition, the Board grants the variances for the side setback of the existing garage from 10 feet to 5.8 feet, the front setback for the existing garage from 20 feet to 0 feet, and a variance for the existing ramp from 10 feet to 0 feet.

1. These Variances are subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the Variances 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.

Any work or use that deviates from this Decision shall be a violation of the *Medway Zoning Bylaw*.

2. Upon receipt of a written request by the applicant filed at least thirty (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. If no request for extension is filed and approved, the Variances shall lapse one year from the date of Decision, unless action is taken, or as may be otherwise specified herein, and may be reestablished only after a new filing, hearing, and decision.

V. INDEX OF DOCUMENTS

A. The Variance application included the following plans and information that were provided to the Board:

1. General Application Form
2. Variance Application Form
3. 180 Main Street Plan of Land with existing and proposed conditions, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA, dated October 18, 2017
4. Plan showing the Relocation and Widening of Holliston Street, Medway, MA, pl.42 bk.120

The Board and the Applicant have complied with all statutory requirements for the issuance of this Decision on the terms hereinafter 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 G.L. c. 40A §15.

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



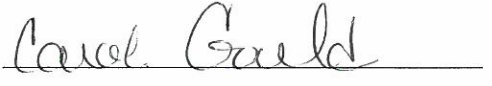

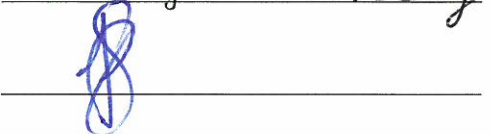
In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is 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 certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

The next page provides the signatures of the Board.

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, on a motion made by Eric Arbeene and seconded by Rori Stumpf, the Zoning Board of Appeals hereby **GRANTS** the Applicant(s), John & Kathryn Regan, **VARIANCES** from Section 6.1 of the Zoning Bylaw in order to split the property of 180 Village Street into two lots. Lot 1 will be 22,503 square feet, a variance from the required 30,000 square feet for a multi-family dwelling and Lot 2 will be 17,759 square feet, a variance from the required 22,500 square feet for a single family lot. In addition, the Board grants the variances for the side setback of the existing garage from 10 feet to 5.8 feet, the front setback for the existing garage from 20 feet to 0 feet, and a variance for the existing ramp from 10 feet to 0 feet.

Member:	Vote:	Signature:
Eric Arbeene	<u>yes</u>	
Brian White	<u>yes</u>	
Carol Gould	<u>yes</u>	
Bridgette Kelly	<u>yes</u>	
Rori Stumpf	<u>yes</u>	

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