

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF:

**Shivani & Pranav Gill
Petitioners**

OPINION OF THE BOARD

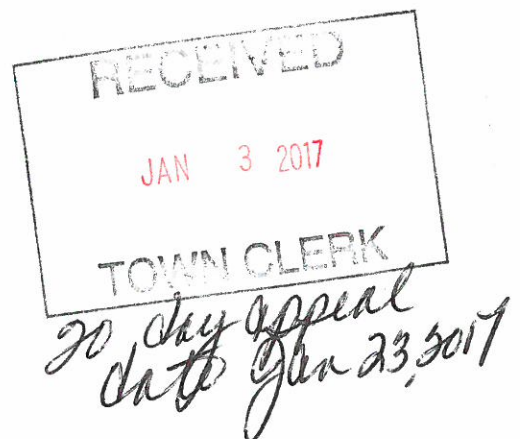
**REQUEST FOR VARIANCES
21 Tulip Way
Medway, MA 02053**

Hearing: December 21, 2016

Decision: December 21, 2016

MEMBERS PRESENT:

**David Cole, Chairman
Carol Gould, Clerk
Eric Arbeene, Member
Brian White, Member**



THE WRITTEN OPINION WAS DELIVERED ON JANUARY 3, 2017

OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA (hereinafter the Board) acting under the Zoning Bylaw of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioners, Shivani & Pranav Gill, requested Variances from Section 6.1 of the Zoning Bylaw to allow a relief of 5 feet from the required 15 foot setbacks of the northern and southern lot lines for the installation of a pool, with respect to the property located at 21 Tulip Way, Assessor Parcel No. 65-007, AR-II Zoning District.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on December 7, 2016 and December 14, 2016. Notice also was sent to all “parties of interest” and posted in the Town Hall as required by Massachusetts General Laws, Chapter 40A Section 11.

The following documents were received by the Board and included as part of the Application and file for this case:

1. Application received November 18, 2016
2. 21 Tulip Way Plot Plan, dated 10/3/16, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA 02053 (received by the ZBA November 18, 2016)
3. 21 Tulip Way Plot Plan, dated 10/3/16, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA 02053 (received by the ZBA December 20, 2016)
4. Comments from Sgt. Jeffrey Watson, Safety Officer, dated 12/10/16
5. Comments from Bridget Graziano, Conservation Agent, dated 12/8/16
6. Staff Report, dated 12/21/16

The Public Hearing opened and closed on December 21, 2016, and all deliberations were conducted and the Decision rendered on the same day. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; and Brian White, Member, and the same members voted on the request for variance. There were no public comments made in opposition of the application during the public hearing.

Hearing Summary

The applicant, Shivani Gill, appeared before the Board to discuss the request for variances for the property located at 21 Tulip Way.

Shivani Gill stated that the size and shape of the lot with the required 15 foot setbacks would put a pool right in front of the back porch. Ms. Gill stated that she has an unpredictable 2 ½ year old and another child on the way and would like to keep her family safe. Ms. Gill stated that pushing the pool back would be safer for everybody.

Chairman Cole noted that the pool installation would conform to the rear setback if there was a rear lot line to conform to. Mr. Arbeene stated that the lot was "pie shaped."

Chairman Cole asked if the applicants had any correspondence with the neighbors. Ms. Gill stated that there had been and that the neighbors were in support of the pool. Ms. Gill stated that one of the neighbors already has a pool and used the same pool company. The neighbor and pool company strongly advised the applicants to get a variance.

Mr. Arbeene acknowledged that the Safety Officer had noted that there were no concerns. Chairman Cole reviewed the Conservation Agent's notes but made no comment on them.

Chairman Cole asked if Ms. Gill knew how far the neighbor's pool was from the house; Ms. Gill did not know.

Chairman Cole asked when the lot and house were built; Ms. Gill believed it was built in 2003.

Ms. Gill stated that she had just leveled the yard and put a retaining wall around the yard with tubing and drainage.

Ms. Gould asked how close the pool would be from the house if it conformed to the setbacks; Ms. Gill did not have an exact distance.

Ms. Gould noted that there is a buffer. Chairman Cole if the other houses would be close to the pool; Ms. Gill noted that there is a neighbor close on one side, but a fence will sit on top of the retaining wall and then neighbor will not be able to see the pool.

There were no members of the public present for any comments or questions.

Findings:

By a vote of 4-0-0:

1. The Board finds that the Applicant demonstrated that the substantially “pie” shaped lot, coupled with the location of the existing dwelling on the lot, creates a hardship in conforming to the side setback requirements, in that conforming to such requirements would place the proposed pool inconveniently close to the existing dwelling.
2. The Board finds that the proposed location of the pool represents a reasonable compromise between the desire to keep the pool a reasonable distance from the existing dwelling and the diminishing side setbacks available, as the pool is more closely located to the northeastern tip of the “pie” shaped lot.

Relief Granted:

By a vote of 4-0-0:

The Board hereby grants to the applicants, Shivani & Pranav Gill of 21 Tulip Way, a variance for the construction of pool at 21 Tulip Way, subject to the conditions that both northern and southern setbacks shall be reduced from the 15 feet required by the Bylaw to 10 feet; and the pool shall be located substantially as shown on the plan submitted to the Zoning Board of Appeals on December 20, 2016.

The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to MGL c. 40A, Section 17, within twenty (20) days after the date of filing this Decision with the Town Clerk.

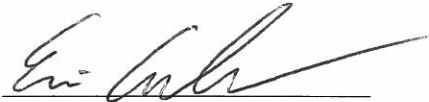
In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, 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. The fee for recording or registering shall be paid by the owner or applicant.



David J. Cole, Chairman



Carol Gould, Clerk



Eric Arbeene, Member



Brian White, Member