

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

RECEIVED TOWN CLERK
SEP 16 '22 AM 7:58

DECISION
REQUEST FOR MODIFICATION OF SPECIAL PERMIT
33 MILFORD STREET (F/K/A 35 MILFORD ST.)

20 Day Appeal
October 6, 2022

Applicant(s): Modern Housing Development, LLC
c/o Michael Larkin, Esq.
PO Box 129
Medfield, MA 02052

Location of Property: 33 Milford Street (Assessor Parcel ID: 56-032-0001).

Approval Requested: The application is for a **modification** of the special permit granted January 20, 2021, to construct a two-family home that has the exterior appearance of a single-family dwelling on the lot; applicant requests to modify condition no. 12 as to payment to the Medway DPW in lieu of the applicant constructing sidewalk and curbing along the entire frontage of the property.

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

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

Date of Decision: September 7, 2022

Decision: GRANTED WITH CONDITIONS

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

DECISION
REQUEST FOR MODIFICATION OF SPECIAL PERMIT
33 MILFORD STREET (F/K/A 35 MILFORD ST.)

Applicant(s): Modern Housing Development, LLC
c/o Michael Larkin, Esq.
PO Box 129
Medfield, MA 02052

Location of Property: 33 Milford Street (Assessor Parcel ID: 56-032-0001).

Approval Requested: The application is for a **modification** of the special permit granted January 20, 2021, to construct a two-family home that has the exterior appearance of a single-family dwelling on the lot; applicant requests to modify condition no. 12 as to payment to the Medway DPW in lieu of the applicant constructing sidewalk and curbing along the entire frontage of the property.

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

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

Date of Decision: September 7, 2022

Decision: GRANTED WITH CONDITIONS

I. PROCEDURAL HISTORY

1. On August 4, 2022, the Applicants submitted an application for a modification to the Board's decision of January 20, 2021, which had approved a special permit under Section 3.4 to construct a two-family home that has the exterior appearance of a single-family dwelling on the lot. The requested modification is to modify condition no. 12 as to payment to the Medway DPW in lieu of the applicant constructing sidewalk and curbing along the entire frontage of the property. The special permit is recorded at the Norfolk County Registry of Deeds at Book 39041, page 161.
2. Notice of the public hearing was published in the Milford Daily News on August 24, 2022, and August 31, 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 September 7, 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 for a two-family house is 30,000 sq. ft. and the minimum frontage requirement is 150 feet. Two-family dwellings are allowed by special permit.
10. The Board notified Town departments, boards, and committees of this application.
11. 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

Michael Larkin was present on behalf of the applicant. He explained that as part of the original decision, condition 12 stated that the applicant is required to construct the sidewalk in front of the property, but "the applicant may elect to pay \$15,000 to the DPW sidewalk fund in lieu of construction." The Department of Public Works preferred to construct the sidewalk in front of the property as part of its construction of sidewalks along this stretch of Milford Street, rather than have the applicant construct it. The applicant received a quote of \$2,920 for completion of the sidewalk in front of the property, which was presented to DPW. DPW agreed that the amount would be sufficient for the work. The applicant is asking the Board to amend the amount it is required to pay to the sidewalk fund in lieu of construction from the \$15,000 required in the special permit decision, to \$2,920.00 as set forth in the estimate.

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 decision and finds that the proposed modification meets the special permit requirements under Section 3.4.

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, Modern Housing Development LLC, a **MODIFICATION** to the special permit granted January 20, 2021, under Section 3.4 Special Permits for the construction of a two-family home that has the exterior appearance of a single-family dwelling, at 33 Milford Street (Parcel ID:56-032-0001), as set forth in this decision, and subject to the **CONDITIONS** herein.

All provisions of the original decision continue in effect, including all conditions, except as expressly modified by this decision.

Condition 12 of the special permit is modified by changing it to read as follows:

12. An asphalt sidewalk 5 feet wide with a 6-inch asphalt curb will be required to be installed along the entire frontage of the property in accordance with MassDOT and Town specifications. Work will be approved and inspected by the Medway DPW. As agreed between the applicant and the Medway DPW, in lieu of the applicant constructing the sidewalk, the DPW will construct the sidewalk, and the applicant will pay \$2,920 to the Town sidewalk fund, to be paid before this modification decision is recorded at the Registry of Deeds.

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. Email from Modern Housing Development, LLC, RE: Approved Special Permit Decision – 33 Milford Street f/k/a 35 Milford Street, Lot A-1, dated August 3, 2022.
2. Residential Paving Contract prepared by Alec DuBois, The Hatch Group, Inc., dated May 24, 2022

B. The following documents were received by the Board during the course of the public hearing process:

1. Email from Nolan Lynch, Supt. of Highway, dated September 1, 2022
2. Email from Cameron Bagherpour dated August 30, 2022

VOTE OF THE BOARD

By a vote of on a motion made by Gibb Phenegar and seconded by Christina Oster, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Modern Housing Development LLC, a **MODIFICATION** to the special permit granted January 20, 2021, under Section 3.4 Special Permits for the construction of a two-family dwelling with the exterior appearance of a single-family home at 33 Milford Street. (Parcel ID: 56-032-0001), to be constructed in accordance with the special permit granted on January 20, 2021, and this modification decision, 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 General Laws chapter 40A, section 11, no special permit or modification 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 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, and notification by the Applicant of the recording, shall be furnished to the Board.

VOTE OF THE BOARD

By a vote of on a motion made by Gibb Phenegar and seconded by Christina Oster, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Modern Housing Development LLC, a **MODIFICATION** to the special permit granted January 20, 2021, under Section 3.4 Special Permits for the construction of a two-family dwelling with the exterior appearance of a single-family home at 33 Milford Street. (Parcel ID: 56-032-0001), to be constructed in accordance with the special permit granted on January 20, 2021, and this modification decision, and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	AYE	<hr/>
Gibb Phenegar	AYE	<hr/>
Christina Oster	AYE	<hr/>
Tom Emero	AYE	 <hr/>
Joe Barresi	AYE	<hr/>

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 chapter 40A, section 11, no special permit or modification 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 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, and notification by the Applicant of the recording, shall be furnished to the Board.