

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Tom Emero, Member
Carol Gould, Associate Member
Rori Stumpf, Member



Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 321-4890
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
SPECIAL PERMIT – KENNEL
4 WILLIAMS STREET

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20 Day Appeal
Sept. 15, 2021

Applicant(s): Lee Skelton
4 Williams Street
Medway, MA 02053

Location of Property: 4 Williams Street (Assessors' Parcel ID: 58-093).

Approval Requested: The application is for the issuance of a **special permit** under Section 3.4 of the Zoning Bylaw and Section 5.4, Schedule of Uses, for a Kennel License for up to 4 dogs.

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

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

Date of Decision: August 18, 2021

Decision: **GRANTED WITH CONDITIONS**

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I. PROCEDURAL HISTORY

1. On July 22, 2021, the Applicant filed for the issuance of a **special permit** under Section 3.4 of the Zoning Bylaw and Section 5.4, Schedule of Uses, for a Kennel License for up to 4 dogs.
2. Notice of the public hearing was published in the Milford Daily News on August 4, 2021 and August 11, 2021, 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 August 18, 2021. 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.
5. The Board notified Town departments, boards, and committees of this application. The Board received comments from the Animal Control Officer.
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, Lee Skelton, was present and explained the application. She is looking to receive a special permit for a kennel for four dogs, which are already living on the property. Ms. Skelton stated that the fourth dog is an emotional support animal for her daughter. When prompted by the Board, Ms. Skelton stated that all the dogs live inside and are fixed. She also stated that all the dogs are companions, and no boarding or breeding will take place.

Mr. Phenegar and Mr. White stated that they want to find conditions that work both for the applicant and the Animal Control Officer. Conditions limiting the number of dogs to four and requiring that all vaccines and licenses be kept up to date were discussed and agreed upon.

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. The Board considered each special permit criterion separately.

A. Section 3.4 Special Permit Decision Criteria

1. *The proposed site is an appropriate location for the proposed use.*
There are already four dogs living on the property without complaints; an area of the yard is fenced to allow the dogs to be outside.
2. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*
There are already four dogs living on the property with appropriate facilities.
3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.*
There is fencing in place to prevent the dogs from leaving the property.
4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area.*
The use will not cause additional traffic because all dogs are companions, and no boarding will take place.
5. *The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site, or operational attributes of the proposed use.*
There are already four dogs living on the property, with no abutter comments suggesting this is an issue.
6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.*
There were no comments from abutters objecting to the use.
7. *The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.*
The zoning by-law allows for kennel operation in this district.
8. *The proposed use is consistent with the goals of the Medway Master Plan.*
The Board believes the kennel will not be detrimental to the goals of the Master Plan.
9. *The proposed use will not be detrimental to the public good.*
There were no comments from abutters objecting to a kennel operation.

The Board finds that the Applicant has demonstrated through the application and evidence submitted, including the plot plan and review of the proposed usage of the property, that she has met all the required Special Permit Decision Criteria under Section 3.4 of the Zoning Bylaw.

IV. CONDITIONS OF APPROVAL

1. This special permit is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the special permit 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.

2. Any work or use that deviates from this Decision may be a violation of the Medway Zoning Bylaw. All conditions imposed by this Decision are mandatory, and any violation of a condition imposed by this decision may be a violation of the Medway Zoning Bylaw. Any violations of this Decision may prevent the issuance of a building permit and/or occupancy permit, or result in the issuance of a cease and desist order, noncriminal penalties, or fines, as further provided in Section 3.1 of the Zoning Bylaw. Please note that Section 3.1.F of the Zoning Bylaw provides:

1. Anyone who violates a provision of this Zoning Bylaw, or any condition of a variance, site plan review decision or special permit, shall be punishable by a fine of not more than three hundred dollars for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.

2. As an alternative means of enforcement, the Building Commissioner may impose noncriminal penalties pursuant to G.L. c. 40, § 21D and Article XX of the Town's General Bylaws, in accordance with the following schedule:

First offense: warning (verbal or written)

Second offense: one hundred dollars

Third offense: two hundred dollars

Fourth and each subsequent offense per violation: three hundred dollars.

3. As provided in Section 3.4.E of the Zoning Bylaw, special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, §17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date, except for good cause. Upon receipt of a written request by the applicant filed at least 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. 4. Not more than four dogs are allowed on the premises at any one time, and all dogs must be kept within a fenced area when outside.

4. The number of dogs that may be kept on the premises at any time is limited to four.

5. All dogs must be kept current on State required vaccines and licensed on time yearly.

V. INDEX OF DOCUMENTS

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

1. "Exhibit B Plot Layout"

2. Letter addressed to the Board

B. During the course of the review, the following materials were submitted to the Board:

1. Email from Brenda Hamelin, Animal Control Officer on August 6, 2021.
2. Email from Applicant responding to Animal Control Officer comments on August 12, 2021
3. Email from Brenda Hamelin, Animal Control Officer on August 12, 2021
4. Medical paperwork from Tufts Veterinary Emergency Treatment & Specialties dated June 13, 2017
5. Letter from Dr. Maitri Patel dated August 16, 2021

VI. VOTE OF THE BOARD

By a vote of 5 to 0 on a motion made by Gibb Phenegar and seconded by Tom Emero, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Lee Skelton, a **SPECIAL PERMIT** under Section 3.4 of the Zoning Bylaw and Section 5.4, Schedule of Uses, for a Kennel License for up to 4 dogs for the property at 4 Williams Street (Assessors' Parcel ID: 58-093), in accordance with the application and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	Aye	_____
Tom Emero	Aye	_____
Christina Oster	Aye	_____
Gibb Phenegar	Aye	_____
Rori Stumpf	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 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 certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

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Rori Stumpf	Aye	_____

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