

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
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TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

RECEIVED TOWN CLERK
FEB 22 '22 PM 3:27

DECISION
REQUEST FOR MODIFICATION
6 SPRING STREET

20 Day Appeal
March 14, 2022

Applicant(s): John and Lesley Kinney
6 Spring St.
Medway, MA 02053

Location of Property: 6 Spring Street (Assessor Parcel ID: 19-022).

Approval Requested: The application is for a **modification** of the special permit request granted September 22, 2021, to construct an Accessory Family Dwelling Unit (AFDU), under Section 8.2 of the Zoning Bylaw; the modification is requested to reduce the dimensions of the addition.

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

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

Date of Decision: February 16, 2022

Decision: **GRANTED WITH CONDITIONS**

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I. PROCEDURAL HISTORY

1. On January 26, 2022, the Applicants submitted an application for a modification to the Board's decision of September 22, 2021, which had approved a special permit under Section 8.2 of the Zoning Bylaw to construct an Accessory Family Dwelling Unit (AFDU) as part of an addition to their home. The requested modification is to reduce and change the dimensions of the AFDU and addition.
2. Notice of the public hearing was published in the Milford Daily News on February 2, 2022, and February 9, 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 February 16, 2022. The hearing was closed the same evening.
4. The property is located in the Agricultural Residential I (AR-I) District. The front setback requirement is 35 feet and the side and rear setback requirements are 15 feet. The minimum lot area requirement is 44,000 sq. ft. and the minimum frontage requirement is 180 feet. Accessory Family Dwelling Units are allowed by special permit.
10. The Board notified Town departments, boards, and committees of this application. The Board did not receive any comments.
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

The Applicants, Lesley and John Kinney, were present, and their designer, Annie Hurwitz, participated via Zoom. Ms. Kinney explained the application for a modification, stating that they are looking to reduce the dimensions of the project, by about 220 square feet. Ms. Hurwitz added that the plans are similar to the previously approved plans; they reduced the scope of the width of the addition, as well as adding a connector area between the principal dwelling unit and the AFDU, which will ease the construction and make it more cost effective. The decrease in dimension will also simplify the construction and make it more aesthetically pleasing. Ms. Hurwitz also stated that the setbacks and elevations are similar to what was approved.

The members had no problem with the application, as the Applicants are requesting to reduce dimensions. It was also noted that Ms. Hurwitz did a great job with the design.

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 requirements for the AFDU special permit.

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 Applicants, John and Lesley Kinney a **MODIFICATION** to the special permit granted September 22, 2021, under Section 8.2 Accessory Family Dwelling Unit for the construction of an accessory family dwelling unit at 6 Spring Street (Parcel ID:19-022), as set forth in the modified Plan and Architectural Plans, and subject to the **CONDITIONS** herein.

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

Condition 6 of the special permit is modified by changing the last sentence of Condition 6 to read as follows: “The dimensions shall not be changed without Board approval, except that minor changes in dimension that do not increase the size of the addition or encroach on any required setback may be allowed by the Building Commissioner as field changes.”

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. Document showing aerial view of 6 Spring Street, dated 8/22/2021.
2. Document showing existing elevations of 6 Spring Street, dated 8/22/2021.
3. “Certified Plot Plan 6 Spring Street, Medway, Massachusetts”, dated July 16, 2021, prepared by O’Driscoll Land Surveying, Inc.
4. “Certified Plot Plan 6 Spring Street, Medway, Massachusetts, dated July 16, 2021, latest revision dated January 26, 2022, showing proposed addition as requested by the modification, dated January 26, 2022 (the Plan).
5. “Certified Plot Plan 6 Spring Street, Medway, Massachusetts, dated July 16, 2021, revised August 23, 2021, showing proposed addition as approved by the Board’s September 22, 2021, decision
6. Proposed First Floor Plan Revised, A.E. Hurwitz Design, dated January 20, 2022 (Architectural Plans)
7. Previously Approved First Floor Plan, A.E. Hurwitz Design dated August 23, 2021.
8. Previously Approved Elevations, A.E. Hurwitz Design, dated August 23, 2021 (4 sheets)
6. Revised Proposed Elevations, A.E. Hurwitz Design, dated January 20, 2022 (4 sheets) (Architectural Plans).

VI. VOTE OF THE BOARD

By a vote of 4-0 on a motion made by Gibb Phenegar and seconded by Christina Oster, the Zoning Board of Appeals hereby **GRANTS** the Applicants, John and Lesley Kinney, a **MODIFICATION** to the special permit granted September 22, 2021, under Section 8.2 Accessory Family Dwelling Unit for the construction of an accessory family dwelling unit at 6 Spring Street. (Parcel ID: 19-022), to be constructed in accordance with the application, the Plan and the Architectural Plans, and subject to the **CONDITIONS** herein.

Member:	Vote:	Signature:
Brian White	AYE	_____
Gibb Phenegar	AYE	_____
Christina Oster	AYE	_____
Tom Emero	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.

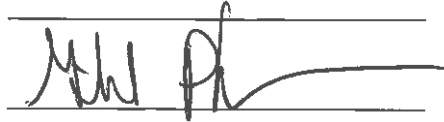
Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within 20 days after the filing of this notice in the office of the Medway Town Clerk.

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.

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