

*Board Members*  
Rori Stumpf, Chairman  
Brian White, Vice Chair  
Gibb Phenegar, Clerk  
Christina Oster, Member  
Tom Emero, Member  
Carol Gould, Associate 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**  
**SPECIAL PERMIT**  
**83 LOVERING STREET**

**Applicant(s):** Medway Meadows LLC  
c/o Michael Larkin (the "Applicant")  
P.O. Box 129  
Medfield, MA 02052

**Location of Property:** 83 Lovering Street (Assessors' Parcel ID: 21-057)

**Approval Requested:** The application is for the issuance of a **special permit** under Section 5.4, Table 1.C of the Zoning Bylaw to convert a single family home into a two-family house that has the exterior appearance of a single family dwelling on the lot.

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

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

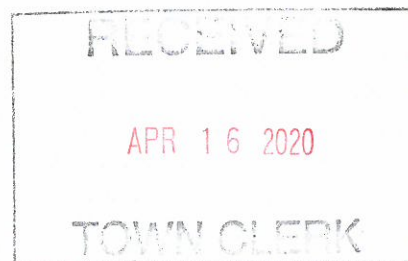
**Date Application Filed:** February 10, 2020

**Hearing Opened:** March 4, 2020

**Hearing Closed:** April 15, 2020

**Date of Decision:** April 15, 2020

**Decision:** GRANTED



*90 day appeal*  
*May 6, 2020*

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<b>Decision:</b>	GRANTED

## **I. PROCEDURAL HISTORY**

1. On February 10, 2020, the Applicant filed an application for a special permit under Section 5.4, Table 1.C of the Zoning Bylaw to convert a single family home into a two-family house that has the exterior appearance of a single family dwelling on the lot.
2. Notice of the public hearing was published in the Milford Daily News on February 19, 2020, and February 26, 2020, 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 March 4, 2020, it was continued to March 18, 2020. The hearing was further continued to April 1, 2020 at the applicant's request. At the April 1, 2020 hearing, the applicant requested to continue to April 15, 2020. A decision was made at the April 15, 2020 hearing and the public hearing was closed on April 15, 2020.
4. Christina Oster filed a Mullin Rule certificate under G.L. c. 39, §23D with the Town Clerk on April 1, 2020 for the meeting that was held on March 18, 2020.
5. The property is located in the Agricultural Residential 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 30,000 sq. ft. and the minimum frontage requirement is 150 feet.
6. The Board notified Town departments, boards and committees of this application.
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**

Michael Larkin was present, manager of Medway Meadows, LLC. He explained his application. He stated the current home is a preexisting dwelling with a small attached "in-law" and that he is looking to formalize it as a two-family. He stated he is not proposing to do any renovations to the building itself. He stated there are no issues with the Conservation Commission. He stated he did research and there was no other classification of the home as being a two-family. He then showed photos of the existing home and went over the floor plan. Each unit would have its own separate entrance.

Ms. Oster asked if it would be rentals or condos. Mr. Stumpf asked about the water and sewer, DPW provided comments stating that if this was to be converted to a two-family that each unit would need to have its' own separate water and sewer accounts with DPW. There was a discussion about the water and sewer service and the need for the services to be two separate accounts. Mr. Larkin stated that he would like to go to speak with DPW about their comments and asked to continue to March 18.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open

Meeting Law, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place as a result of the COVID-19 pandemic, continued sessions of the public hearing were held virtually by the Board beginning with the meeting of March 18, 2020. Members of the public were not allowed to attend these sessions in person; access was provided via internet and telephone, and the meetings were also shown live on Medway Cable Access. See chapter 53 of the Acts of 2020. At the March 18, 2020 hearing, Michael Larkin, manager of Medway Meadows LLC, the applicant was present remotely and requested a continuance to April 1, 2020, stating that he has spoken with David D'Amico, DPW Director, who stated he will forward his comments to the Board in regards to the water and sewer connection. The Board agreed with the applicant's request to continue to April 1, 2020. At the virtual meeting of April 1<sup>st</sup>, Mr. Larkin asked for a further continuance of the public hearing to April 15, 2020, which was granted by the Board.

The public hearing was re-opened on April 15, 2020 during a virtual meeting. Mr. Larkin was present and stated he wanted to move forward, asking that the Board potentially grant a condition that the applicant comply with Department of Public Works requirements in relation to water connection and meters. The Board was agreeable to that and reviewed the special permit criteria. The Board decided that the applicant met all the special permit. Ms. Saint Andre reviewed the boiler plate conditions as well as discussed the proposed condition requiring the applicant to meet DPW requirements. The Board then granted the special permit with conditions.

### **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.

#### **A. Section 3.4 Special Permit Decision Criteria**

1. *The proposed site is an appropriate location for the proposed use.*
2. *Adequate and appropriate facilities will be provided for the operation of the proposed use.*
3. *The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment.*
4. *The proposed use will not cause undue traffic congestion or conflicts in the immediate area.*
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.*
6. *The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district.*

7. *The proposed use is in harmony with the general purpose and intent of the Zoning Bylaw.*
8. *The proposed use is consistent with the goals of the Medway Master Plan.*
9. *The proposed use will not be detrimental to the public good.*

The Board found that the application meets all of the criteria for a special permit under Section 3.4. The Board noted that there will be no changes to the outside of the structure, the site is appropriate, has adequate facilities, and the second dwelling unit will not cause a hazard or be detrimental to adjoining properties. There will be a shared driveway which will not create any traffic congestion. A two-family dwelling will not alter the character of the neighborhood, especially as there will be no changes to the outside of the dwelling, and is in harmony with the intent of this residential neighborhood.

#### 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 the Applicant, Medway Meadows, LLC c/o Michael Larkin, a ***SPECIAL PERMIT*** for a ***TWO FAMILY HOUSE*** under Section 3.4, and Table 1.C of the Zoning Bylaw for the property located at 83 Lovering Street, (Parcel ID: 21-057), subject to the following conditions:

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 modification.
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. Gutters and downspouts are not allowed to be placed in a manner to allow discharge of stormwater to the street.
5. Smoke detectors and carbon monoxide detectors must be installed in accordance with the Massachusetts Fire and Building Codes.
6. The applicant shall comply with all Department of Public Works requirements for establishment of a two-family house, including but not limited to any requirements related to water connections and water meters, and obtain any necessary permits from the Department of Public Works for conversion of the building to a two-family house.

**V. INDEX OF DOCUMENTS**

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

1. “Plan of Land in Medway, MA” dated January 16, 2020, Owner: Medway Meadows LLC, prepared by Colonial Engineering, Inc. 11 Awl Street, Medway, MA.
2. Floor plans for Unit 1 and Unit 2 layout prepared by Glasshouse Media, 2 sheets
3. Photos of the exterior of both proposed units at 83 Lovering Street Medway, MA
5. Property card for 81 Lovering Street Medway, MA

**B.** During the course of the review, the following materials were submitted to the Board by Town departments and boards:

1. Two emails from David D’Amico, Medway DPW Director dated February 11, 2020.
2. Email from Chief Lynch, Medway Fire Dept. dated February 11, 2020.
3. Email from Joanne Russo, Medway Treasurer dated February 11, 2020.

4. Email from Bridget Graziano, Medway Conservation Agent dated February 18, 2020.

## VI. VOTE OF THE BOARD

By a vote of 5 to 0, on a motion made by Brian White and seconded by Gibb Phenegar, the Zoning Board of Appeals hereby **GRANTS** the Applicant, Medway Meadows, LLC c/o Michael Larkin, a **SPECIAL PERMIT** for a **TWO FAMILY HOUSE** under Section 3.4, and Table 1.C of the Zoning Bylaw for the property located at 83 Lovering Street (Parcel ID: 21-057), subject to the conditions stated herein.

Member:	Vote:	Signature:
Rori Stumpf	AYE	_____
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 special permit 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 General Laws chapter 40A, section 15.

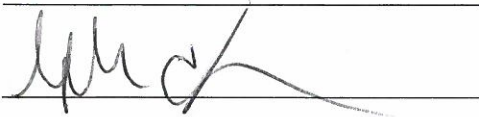
Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, which shall be filed within twenty days after the filing of this decision in the office of the Medway Town Clerk.

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 20 days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed 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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