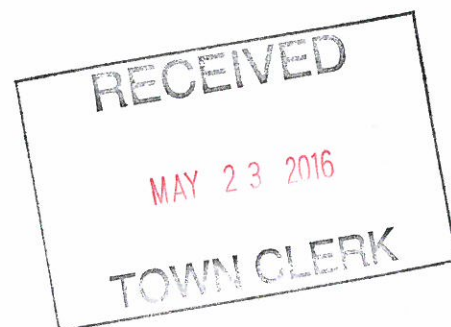


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Darlene Burke
 Petitioner**



*20 day Appeal
June 12, 2016*

OPINION OF THE BOARD

**REQUEST FOR A SPECIAL PERMIT
KENNEL LICENSE
1 Wildwood Road, Medway, MA**

**Hearing: May 18, 2016
Decision: May 18, 2016**

**MEMBERS PRESENT: David J. Cole, Chairman
 Carol Gould, Clerk
 Eric Arbeene, Member
 Brian White, Member
 Rori Stumpf, Associate Member**

THE WRITTEN OPINION WAS DELIVERED ON MAY 23, 2016

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 petitioner, Darlene Burke, request a Special Permit under Section 5.4 of the Zoning Bylaw to request a Kennel License for five dogs, household pets only, on the property located at 1 Wildwood Road, Medway MA.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on April 27, 2016 and May 4, 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 and stamped by the Town Clerk and Board of Appeals on April 5, 2016.
2. Plot Plan provided by the applicant, Ms. Darlene Burke, received on April 8, 2016.

The Public Hearing opened and closed on May 18, 2016. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; Brian White, Member and Rori Stumpf, Associate Member. The Board voted on the request for a special permit on May 18, 2016.

At the hearing, an abutter stated that there has never been an issue or concern and is in support of the application.

Hearing Summary

The applicant, Darlene Burke, and her husband, Edward Burke, appeared before the Board to discuss the request for a Special Permit for a Kennel License for the property located at 1 Wildwood Road.

Ms. Burke explained how she came to have five dogs at her property which include two Labradors, age 8 and 10, a female cocker spaniel and two of her puppies, now each 1 year old. Mr. Burke noted that the Labradors weigh between 70-80lbs and the cocker spaniels weigh between 20-30lbs. Ms. Burke added that all of the dogs have been spayed or neutered and that they are household pets. There is no commercial activity taking place at the property.

The Board questioned if there were adequate facilities and space for the number of dogs. Mr. Burke responded that their property is a little over an acre and the backyard area used by the dogs is approximately a ½ acre. He further explained that the backyard area is fenced and there is an invisible fence around the perimeter of the property. The Board asked if there could be more than 5 dogs and if there were any breeding or showing activities. Ms. Burke responded that they are not breeding or showing dogs and does not intend to get any more dogs. The Board also asked if there were any complaints from the Animal Control Officer. Ms. Burke answered no.

The Board inquired about the dogs' outdoor activity and if someone was with them when outdoors. Ms. Burke responded that they are never left unattended when outside. Mr. Burke added that the dogs are indoors the majority of the time. The Labradors and cocker spaniel do go outside for a short time and the puppies may stay out a little longer but again they are mainly indoors.

The Board felt comfortable with the proposed request as there have been no issues or complaints known. In addition, there are suitable facilities for the dogs with proper fencing in place. The dogs are mostly indoors and have not been a nuisance to the neighborhood.

Findings:

By a vote of 5-0-0:

1. The Board finds that the applicant testified that the subject lot comprises approximately 1 acre and is equipped with suitable facilities for accommodating dogs, namely a fully fenced backyard and invisible fence around the property.
2. The Board finds that the applicant testified that no complaints regarding noise from the dogs have been received and that no objections have been raised by the Animal Control Officer or any other town authority, and it is further noted that one of the neighbors testified in favor of the application.
3. The Board finds that the applicant stated that they do not intend to increase the number of dogs beyond the existing 5 and that the dogs are exclusively household pets and no breeding or commercial activity will occur in connection with the dogs.

Relief Granted:

In view of the foregoing findings and by a vote of 5-0-0:

The Zoning Board of Appeals hereby grants to the applicant, Darlene Burke, of 1 Wildwood Road, Medway, MA a Special Permit under Section 5.4 of the Medway Zoning Bylaw for a Kennel License for 5 dogs on the property subject to the following terms and conditions:

1. There shall be no breeding or other commercial activity in connection with the kennel permit; and
2. The dogs shall not be left outside when no person is present on the premises.

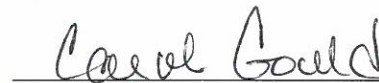
The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public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



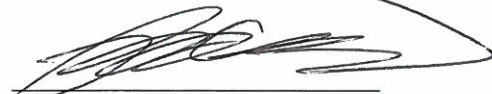
David J. Cole, Chairman



Carol Gould, Clerk



Eric Arbeene, Member



Brian White, Member



Rori Stumpf, Associate Member