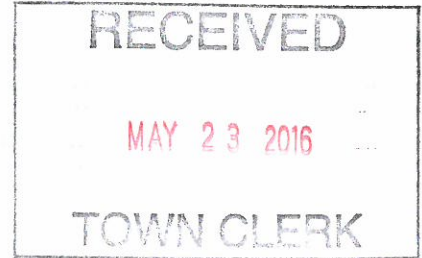


COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF: Steven and Susan Houde
Petitioners



*20 Day Appeal
June 12, 2016*

OPINION OF THE BOARD

REQUEST FOR A VARIANCE
184 Main Street, Medway, MA

Hearing: May 4, 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 petitioners, Steve and Susan Houde, request a Variance from Section 6.1 of the Zoning Bylaw to allow for an 8ft side setback where a minimum of 15ft is required for the construction of a garage on the property located at 184 Main Street, Medway.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on April 13, 2016 and April 20, 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 March 18, 2016.
2. Plan of Land for 184 Main Street, dated March 6, 2016, prepared by Colonial Engineering Inc. of 11 Awl Street, Medway, MA 02053 received with the Application.
3. Aerial and property photos provided by the applicant, Mr. Steven Houde, received on March 18, 2016 and May 2, 2016.
4. Correspondence from Conservation Agent Bridget Graziano, email received April 1, 2016.
5. Correspondence from Gloria Bain of 186 Main Street, email received May 3, 2016.
6. Correspondence from Ellen Wettengel of 182 Main Street, email received May 4, 2016.

The Public Hearing opened and closed on May 4, 2016. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; William Kennedy, Member; Brian White, Member and Rori Stumpf, Associate Member. The Board voted on the request for a variance on May 18, 2016. The Board members voting were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; Brian White, Member and Rori Stumpf, Associate Member.

At the hearing, the Board received correspondence from direct abutters sent by email in support of the application. An abutter present at the hearing stated that they had submitted email correspondence but wanted to express in person that they were in full support of the proposed request.

Hearing Summary

The applicants, Steven and Susan Houde, appeared before the Board to discuss the request a Variance for the property located at 184 Main Street.

Mr. Houde explained that his home is located in the Agricultural Residential II zoning district, and is a non-conforming lot created in 1830. The proposed garage to be constructed will be designed in such a manner that it will be in character with the existing house and neighborhood. He referenced a similar barn-like structure in nature to that located at 4 Milford Street. He further stated that the garage would line up with the existing driveway and there would be sufficient room to allow vehicles to turn around before exiting his driveway onto Main Street (Route 109). He believes that the proposed location of the garage is consistent with others in the area.

Mr. Houde had spoken with his adjacent neighbors and they are supportive of his request. Two of his neighbors have provided the Town with written documentation of their support. He added that the privacy between his and the adjacent home at 182 Main Street presently provided by an arborvitae hedge will remain. Mr. Houde stated that one of the primary reasons for this request is to allow for a safer egress from his driveway onto a busy road.

The Board discussed with the applicant the criteria for granting a variance under MGL c. 40A Section 10 and agreed that the applicant has made a good case for the requested variance based on the topography of the lot and safety.

The Board reviewed the proposed garage and questioned its location shown on the plan and the alignment with the driveway. Mr. Houde responded that the location suggested would prevent the existence of a narrow alley between existing home and proposed new garage.

The Board inquired if there was an architect involved for the project. Mr. Houde informed the Board that they were using a planner obtained through their builder and reiterated that the intent is to allow vehicles enough room to turn around and exit the property facing traffic as opposed to backing out to oncoming traffic.

The Board recognized that circumstances exist relating to the topography of the subject lot creates safety issues with vehicles exiting the property onto Route 109. The Board further acknowledged that the layout of the existing driveway reduces the possibilities of where the garage could be located on the property and therefore agreed with the proposed location of the garage as shown on the plan, which allows sufficient space and ease for vehicles to turn around on the property before exiting.

The Board determined that the requested variance allowing for an 8ft side setback is not out of character with the neighborhood as surrounding lots have similar setbacks. The Board received evidence of neighborhood support and agreed that the request for a variance would not be detrimental to the public good. The Board was comfortable with the request as proposed.

Findings:

By a vote of 5-0-0:

1. The Board finds that the applicants demonstrated conditions of topography which especially apply to the subject lot and do not generally apply to the land in the same zoning district, namely the steep slope from the site of the proposed garage down towards Main Street and further, that the heavy traffic on Main Street poses a safety hazard in reversing cars into the traffic. This safety hazard will be alleviated by the construction of the proposed garage, which will enable vehicles to turn around and exit forwardly onto Main Street.
2. The Board finds that the grant of the requested relief would not be contrary to the public good in as much as there are numerous lots in the immediate neighborhood having side setbacks as low as the approximate 8ft requested.
3. The Board finds that having regard to considerations of topography and location of the existing dwelling on the lot, coupled with the need to use the existing driveway for turning vehicles as aforesaid, the proposed location of the garage is essentially the only practicable location for the garage on the subject lot.

Relief Granted:

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

The Zoning Board of Appeals hereby grants the request for a Variance from Section 6.1 of the Medway Zoning Bylaw to the applicants, Steven and Susan Houde of 184 Main Street, Medway, MA to allow for the construction of a garage on the subject lot substantially in accordance with plans submitted with the reduction of the side setback from 15ft to 8ft.

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