

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



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# TOWN OF MEDWAY

## COMMONWEALTH OF MASSACHUSETTS

### ZONING BOARD OF APPEALS

**Wednesday, June 3, 2020 at 7:30 p.m.**

**Virtual Meeting**

#### **Meeting Minutes**

**Present:** Rori Stumpf, Chair; Brian White, Vice Chair; Gibb Phenegar, Clerk; Tom Emero, Member

**Also Present:** Barbara Saint Andre, Director, Community and Economic Development

**Stefany Ohannesian, Administrative Assistant, Community and Economic Development**

#### **Call to Order**

Chairman Rori Stumpf called the meeting to order at 7:30 p.m. and read that this meeting is being broadcast and recorded by Medway Cable Access. 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, no in-person attendance of members of the public will be permitted at this meeting. Board members will be participating remotely. For public hearings, access via Zoom is provided for the required opportunity for public participation. Information for participating via Zoom is posted at the end of the ZBA Agenda on the town website. He then read instructions on how to participate in the meeting.

#### **Public Hearings**

***18 Broad Acres Farm Road*** - The application is for the issuance of a **special permit** under Section 8.2 of the Zoning Bylaw to construct an Accessory Family Dwelling Unit ("AFDU") in a separate structure on the property.

Justin and Jennifer Smith, the applicants, were present and Ms. Smith began by explaining they are applying for the accessory dwelling for Jennifer's mother, to be able to assist them with childcare while having her own space. Todd Allen, of HIS Construction, the contractor, was present and explained the location of the proposed structure. He explained it was designed to fit nicely in the neighborhood and it is similar to recent AFDU's in the neighborhood, which were constructed as additions to existing homes. This structure would be within all required setbacks for the property.

Mr. Phenegar questioned the lower level (basement) and what it would be used for. Mr. Allen explained that this would be utilized as office space for the home business (daycare) that is currently run out of the primary dwelling on the property. He explained it will not be used for the daycare and would strictly be used as an office and no other finished living space. They want to have a clean, safe space for office work rather than an unfinished basement.

Ms. Saint Andre spoke about the square footage of the proposed structure, referencing comments from the Building Commissioner. With the added square footage in the basement, the unit would be over 800 square feet and would need approval from the Board under subsection 8. Ms. Saint Andre cited the bylaw definition of “gross floor area”, which includes basements. Mr. Allen explained they were targeting the foot print of the main floor, which is less than 800 square feet, and the basement would not be your typical “finished” basement, it would only be utilized as an office for the home business (daycare). Otherwise, the unit would have only 400 square feet of livable space if the basement and first floor could not exceed a total of 800 square feet. Mr. Emero spoke about the other AFDU’s approved by the Board, and he believes this proposed project is consistent with the bylaw intent to limit the size of the AFDU. Mr. Phenegar agreed, and he also believes the Board members should separately discuss this issue regarding increasing the size of an AFDU to mainstream the requests that have been coming in lately to have larger AFDU’s. Mr. White agreed that the question is whether the mass of this structure is appropriate for the neighborhood and that a basement is not a concern. Mr. Stumpf stated that he does not have a problem with the additional space because it is a lower level. He stated that he does not want to have the basement used as a daycare, though. Mr. Emero stated that he respects the fact that the applicant requested this all at once rather than needing to come back later for further approval. Mr. Stumpf then invited the public to comment.

Brian McSweeney of 20 Broad Acres Farm Road presented at length a PowerPoint that he had submitted. He stated that he feels the proposed structure and application does not meet specific AFDU requirements or special permit requirements. He started specifically with the AFDU criteria section 8.2.C.7, an AFDU shall be designed to preserve the appearance of the single family dwelling (principal dwelling unit) and be compatible with the residential character of the neighborhood, which he does not believe is being met with this application. Further, the design of this AFDU, with a farmer’s porch and front entrance, he stated does not preserve the appearance of the single family dwelling. He also stated that the entrance should be to the rear or side. He spoke in regards to the current upscale character of the neighborhood and his strong opposition to a separate structure being constructed for an AFDU as opposed to an addition or within the existing home. He stated he believes a separate structure does not maintain the residential character of the neighborhood as provided in Section 8.2.A.3. He explains there are 3 AFDUs in this specific neighborhood, one being located in his residence. He does not believe that a separate unit should be allowed to be built on a AR-I lot with a single family dwelling unit already existing on the lot.

Mr. McSweeney stated there have been no other approved separate structure AFDUs in Medway, this application is the first. He stated that this new structure would affect the resale value of the current home and surrounding homes in the area. He equated the separate AFDU to a second detached home, claiming it has a 1300 square foot footprint and 25 foot high roofline. He stated on several occasions that the look of the proposed unit will adversely affect the character of the neighborhood.

Mr. McSweeney also expressed the opinion that the AFDU does not meet the general criteria for a special permit under Section 3.4.C.6, because it will adversely affect the surrounding neighborhood or significantly alter the character of the zoning district, for the reasons stated above. He stated he went through 5 years of ZBA decisions as well as spoke to town staff in regards to this application. He also feels that these are adverse effects which outweigh the beneficial impacts to the town or neighborhood, under Section 3.4.C. Finally, he stated that the AFDU will be detrimental to the adjoining properties due to undesirable visual attributes; see Section 3.4.C.5. He is looking for a compromise to be able to resolve

the non-compliances he has mentioned in his presentation. He would like the AFDU to be an addition to the existing house.

Mr. Stumpf then went over the AFDU criteria individually. He stated if you look at the Zoning Bylaw AFDU provisions the intent is that the principal dwelling unit does not look like a multifamily dwelling. Mr. White stated he drove down the road and that the proposed structure would not be too visible from the road with the trees there and stated that it would look in tune with the neighborhood. Mr. Stumpf clarified the setbacks and that this project is well within the setbacks for the property being placed at least 112 feet from the front, side setback is 35 feet and rear setback is 63 feet with one parking space dedicated for the unit.

Dave Corbett of 16 Broad Acres Farm Road stated he wanted to give the Board another opinion. He believes there are going to be more of these instances of parents living in accessory units and is in favor. It would be on their side of the yard and they do not have any issue with an additional structure.

Alan DiBiasio of 11 Broad Acres Farm Road stated that he agrees with Mr. Corbett about parents moving in with their children. He does believe that the structure is oversized for the neighborhood and does not believe it is in character within the neighborhood. He also thinks that it looks like two single family homes on one property and he does not think it is in keeping with the intent of the bylaw.

Mr. McSweeney inquired about the detached AFDU option of the bylaw and does not think it should be applied to being within a subdivision that has a “certain” character about it. He does not believe that two single family homes on a property should be allowed. He asked what the intent of adding it to the bylaw. Mr. Stumpf clarified that the Board members follow the bylaws in place and determine decisions based on the criteria being met.

Mr. Stumpf then reviewed the Accessory Family Dwelling Unit criteria individually. He stated that the application meets criterion #1 under Section 8.2.C.1.c being a separate structure on the property. After reviewing all other criteria, the Board concluded that the applicants have met all the criteria.

Mr. McSweeney then spoke again in opposition of the separate structure on the property. Mr. Stumpf clarified that the residents of the town voted in favor of this section of the bylaw, therefore it is something to be applied for and considered.

**With a motion made by Brian White seconded by Gibb Phenegar the Board finds that the Applicant has met all of the required Accessory Family Dwelling Unit decision criteria passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

Mr. Emero stated he wanted to make sure that this AFDU would be built based on the information provided, meaning the basement would not be able to be finished. Mr. Stumpf stated that one of the conditions would state that this proposed structure would be built in accordance to the plans. Mr. Emero was agreeable to that.

**Motion to allow the AFDU to be more than 800 sq. feet, in accordance with the plans submitted, made by Brian White seconded by Gibb Phenegar, passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

Mr. Stumpf then went over each of the special permit criteria. The board members specifically commented on criterion #1 stating that the proposed site is in an appropriate location because it is set back over 100 feet from the street and it does not encroach in setbacks, additionally the trees will help to hide the structure. The members then specifically commented on criterion #2 as it is a standalone unit with all the necessary utilities, therefore having the adequate and appropriate facilities for operation. Mr. Stumpf and the members reviewed the other criteria. Ms. Saint Andre stated that the Master Plan supports a variety of different housing options for the Town, therefore it is in compliance with criterion #8. The Board members all agreed upon the remaining criteria being met for this proposed project.

Chris and Lisa Dixon of 5 Stable Way shared that they bought into the neighborhood for single family dwellings and did not want a detached accessory dwelling. Mr. Stumpf stated that he cannot stress enough that this is part of the bylaw as passed by town meeting. The other Board members agreed.

**With a motion made by Brian White seconded by Gibb Phenegar the Board finds that the Applicant has met all of the required special permit decision criteria passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

Ms. Saint Andre then read the “boiler plate conditions” 1 – 7 as well as two additional conditions to be considered in regards to the Town’s stormwater system as well as complying with all DPW utility requirements. Mr. Stumpf and the Board members agreed to these conditions. Mr. Stumpf also wanted to add a condition similar to as follows, “No home business associated with the property shall not be associated nor have any business conducted out of the AFDU.”

**Motion to grant the special permit request for 18 Broad Acres Farm Road with conditions set forth, made by Brian White seconded by Gibb Phenegar passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

**Motion to close the public hearing for 18 Broad Acres Farm Road and to allow one member of the Board to sign the decision made by Brian White seconded by Gibb Phenegar passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

#### **New Business**

***Glen Brook Way Comprehensive Permit:*** To review Phase I final plans submitted and consider Tetra Tech estimate for Construction Observation.

Jennifer Van Campen with Metro West Collaborative was present and discussed the Phase I final plans that were recently submitted for review by the Board members. She stated one of the major changes that the Fire Chief asked them was to pave the fire access behind the building furthest away from the street which prompted an amendment with Conservation due to adding more impervious surface. She stated they are in compliance with all the concerns.

Steve Bouley was present and stated they clarified a lot of the issues and they have been addressed through a separate meeting with the applicant. Ms. Saint Andre stated that the changes requested have been made and that the “final” final plans to be submitted at the next meeting.

Mr. Stumpf then reviewed the construction observation estimate of \$15,136.00 from Tetra Tech, the Board members agreed upon the proposal.

**Motion to approve the proposed estimate from Tetra Tech, Inc. for Glen Brook Way Phase I construction observation made by Brian White, seconded by Gibb Phenegar passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

The Board will continue to review the final plans for Glen Brook Way on June 17, 2020.

***39 Main Street Construction Observation Estimate:*** To review and consider Construction Observation estimate from Tetra Tech.

The Board then reviewed the construction observation estimate of \$20,726.00 for the 39 Main Street comprehensive permit. The Board members agreed upon the proposal.

**Motion to approve the proposed estimate from Tetra Tech, Inc. for 39 Main Street construction observation made by Brian White, seconded by Gibb Phenegar passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

**Approval of Minutes**

- May 20, 2020

**Motion to approve the minutes for May 20, 2020 as presented made by Brian White, seconded by Gibb Phenegar passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

**Upcoming Meetings**

- June 17, 2020 – Glen Brook Way final plans review
- July 1, 2020

**Adjournment**

**Motion to adjourn the meeting at 9:00 p.m. made by Brian White, seconded by Gibb Phenegar passed with a roll call vote of 4-0:**

**Brian White – Aye**

**Tom Emero – Aye**

**Gibb Phenegar – Aye**

**Rori Stumpf – Aye**

Respectfully submitted,

Stefany Ohannesian

Administrative Assistant

Community and Economic Development

**Documents viewed at this meeting:**

1. 18 Broad Acres Farm Road Special Permit Application
2. "18 Broad Acres Farm Road Special Permit Public Hearing" PowerPoint presentation