

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Elizabeth Blenkhorn
Petitioner**

**PROPERTY OWNER: Elizabeth Blenkhorn
4 Hillside Court
Medway, MA 02053**

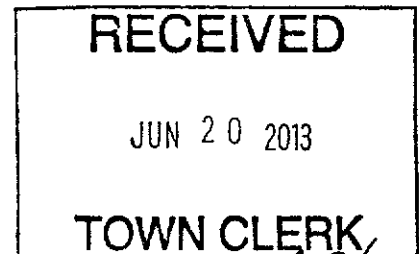
OPINION OF THE BOARD

**REQUEST FOR SPECIAL PERMIT
4 Hillside Court**

**Hearing: May 15, 2013
Decision: May 15, 2013**

**MEMBERS PRESENT: Joseph Musmanno, Chairman
David Cole, Clerk
Anthony Biocchi
Carol Gould
Arlene Doherty**

THE WRITTEN OPINION WAS DELIVERED ON JUNE 19, 2013



*30 day appeal starts
July 30, 2013*

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 By-Laws of the Town of Medway, MA, 02053 and the Massachusetts General Law Chapter 40A, as amended, in which the petitioner, Elizabeth Blenkhorn, requests a Special Permit to raze the existing structure and replace with a new modular home, located at 4 Hillside Court, 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 May 1 and 8, 2013. Notice also was sent to all "parties in interest" and posted in the Town Hall as required by Massachusetts General Laws Chapter 40A, Section 11.

The Public Hearing was held, and the record closed on May 15, 2013. At the hearing, no member of the public spoke in favor of, or in opposition to the application. Two letters from abutters in support of the application were submitted to the Board and read into the record.

Hearing Summary

The Applicant, Elizabeth Blenkhorn, came before the board to request a Special Permit to raze the existing structure and construct a new modular home. Ms. Blenkhorn presented a plot plan of the existing structure and the proposed rebuild as well as front, rear and side elevation plans. Hillside Court is a very old street which once went through to North Street and is located in the ARII zoning district. The existing single story house is over 100 years old with bedrooms in the basement and is beyond restoration. The Medway Historical Society was consulted and had no objection in the proposed razing of the building and rebuild. An addition to the existing house was erected in 1986 on the east side of the older building, and above grade. The applicant stated that the new construction was designed to retain the front of the existing foundation; the farthest forward part of the foundation is that of a porch which has been added to the pre-existing structure; neither the side nor the back of the proposed building will be on the existing foundation. The existing deck on the north side of the house will be removed. The topography of lot inhibits the new construction to conform to current setback zoning standards. Moving the house back (i.e. eastward) to conform to setback requirements would involve major filling and considerable expense, and would leave the house several feet above grade. The existing setbacks on the plan show the front setback to be 9 feet and the south side setback 1.9 feet. The proposed new house would be a modest, single story home with the front setback maintaining the existing 9 foot setback and the south side setback increased to 10 feet. There has been no application for a building permit.

The Board noted that Ms. Blenkhorn's application requested relief under Section V.D.4.a Non-Conforming Uses. However, the Board considered that a Special Permit under section V.F.7 would be more appropriate, and affirmed that the application was advertised as requesting a Special Permit only.

Findings:

1. The proposal, as described, does not meet the rigorous definition of the terms "reconstruction", "alteration" and "enlargement" as listed in Section V.D.4.a of the Medway Zoning By-Law. *By vote of 4-0-1 with Messrs. Musmanno, Cole, Biocchi and Ms. Gould in favor, none opposed, and Ms. Doherty abstaining.*

2. The front and side setbacks of buildings on adjoining and nearby lots vary from the setback requirements of the zoning district. *By vote of 5-0*
3. The grant of a Special Permit under Section V.F.7 of the Medway Zoning By-Law would not cause substantial detriment to the public good. *By vote of 5-0*
4. The project as proposed meets all of the Special Permit criteria set forth out in Section III.J of the Medway Zoning By-Law. *By vote of 5-0*

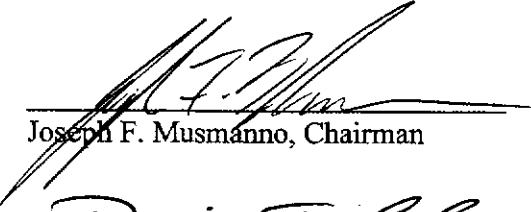
Relief Granted

By Vote of 5-0

A Special Permit, in accordance with the provisions of Section V.F.7 of the Medway Zoning By-Law, is granted to the Applicant, Elizabeth Blenkhorn, for the construction of a one story, single family dwelling at 4 Hillside Court, Medway, MA 02053 substantially in accordance with the attached and initialed plans with a front setback of at least 9 feet, and on the condition that the side setback be at least 10 feet.

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.

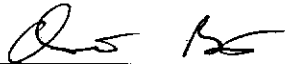
IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW, CHAPTER 40A, SECTION 11 NO VARIANCE, SPECIAL PERMIT OR CONSTRUCTIVE GRANT OF A VARIANCE TAKES EFFECT UNTIL RECORDED IN THE REGISTRY OF DEEDS.



Joseph F. Musmanno, Chairman



David Cole



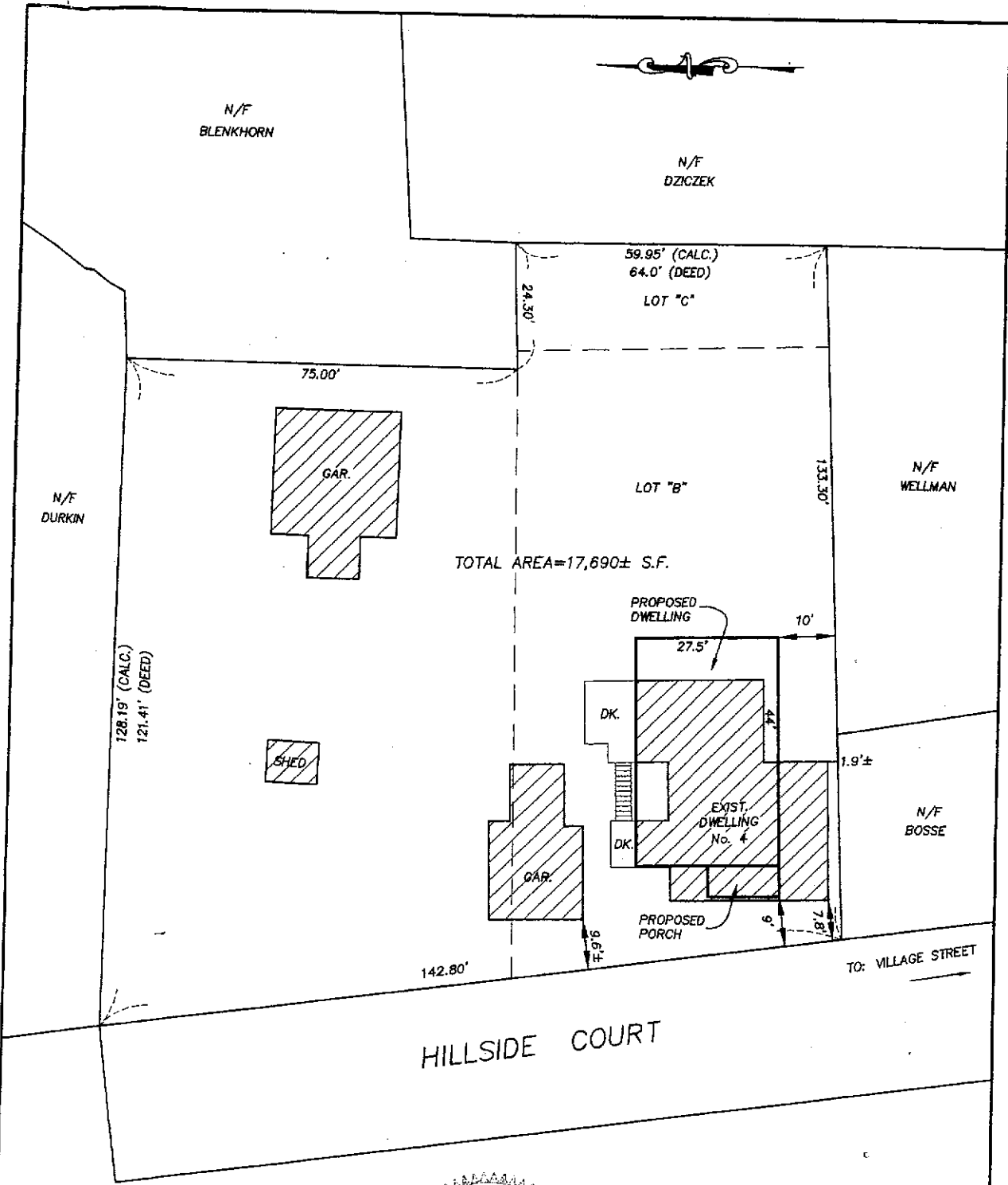
Anthony Biocchi



Carol Gould



Arlene Doherty



Deed 7/10/13
4/3/13

PREPARED FOR: ELIZABETH BLENKHORN
 DEED REFERENCE: NORFOLK COUNTY REGISTRY OF DEEDS
 DEED BOOK 5052 PAGE 604
 PLAN REFERENCE: PLAN No. 31 OF 1937
 ZONING DISTRICT: AGRICULTURAL AND RESIDENTIAL DISTRICT II

CERTIFIED PLOT PLAN
 4 HILLSIDE COURT
 MEDWAY, MASSACHUSETTS
 SCALE: 1"=20' MARCH 6, 2013
 REV. APRIL 3, 2013

I CERTIFY THAT THE DWELLING IS LOCATED ON THE LOT AS SHOWN ON THIS PLAN.
 I FURTHER CERTIFY THAT THE DWELLING DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD ZONE.

O' DRISCOLL
LAND SURVEYING Co.

LAND SURVEYING GPS MAPPING LAND CONSULTING
 48 COTTAGE STREET MEDWAY, MASSACHUSETTS 02053 (508) 533-3314

5/15/13
A.D.
A.B.
Dr
CAG