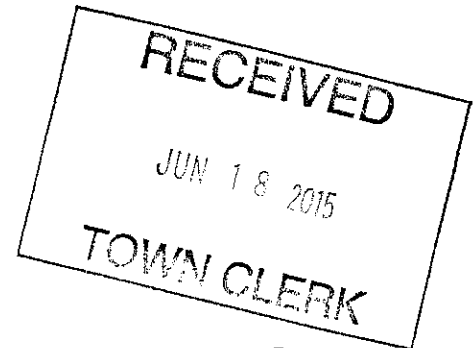


**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, SS**

**IN THE MATTER OF:     Todd and Lori Allen  
                              Rabbit Hill Properties, LLC  
                              Petitioners**



*20 Day Appeal  
July 8, 2015*

**OPINION OF THE BOARD**

**REQUEST FOR SPECIAL PERMIT  
135 Main Street, Medway, MA**

**Hearing: June 3, 2015  
Decision: June 3, 2015**

**MEMBERS PRESENT:     David J. Cole, Chairman  
                              Eric Arbeene  
                              Carol Gould  
                              Craig Olsen**

**THE WRITTEN OPINION WAS DELIVERED ON June 17, 2015**

## 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-Law of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioners, Todd and Lori Allen, request a Special Permit under Sections III, IV and V to allow for retail and office space at 135 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 May 20 and 27. 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 Public Hearing was held and closed on June 3, 2015. At the hearing, no members of the public spoke in favor of or in opposition to the application.

### Hearing Summary

The applicant, Mr. Todd Allen, appeared before the Board to request a Special Permit to expand the retail space by 2,096 square feet at 135 Main Street, Medway. The additional square footage would bring the sum of total possible retail space to 3,696 square feet.

The applicant stated at the public hearing that the requested expansion of retail space would be used by current tenants to expand display space but would not increase customer traffic to the premises. The applicant explained that the written opinion of the Board granting the previous Special Permit dated August 6, 2014 included a condition that the space designated for retail use shall not exceed 1,600 square feet which caused a problem for a retail tenant. An antiques business currently occupies the first floor and would like to expand its retail space to the second floor. A second tenant, whose primary business is to make embroidered goods, would also like to be able to sell examples of his products. The embroidery business would be located on the first floor of the back unit.

The applicant noted that the proposed increase in retail use is in an appropriate location with neighboring business use properties and does not significantly alter the character of the zoning district. The proposed location has appropriate facilities for both the retail and office use. Board members expressed concerns that an antiques store may not generate large amounts of traffic but this space may change in the future to a use that creates high traffic.

**Findings:**

By vote of 4-0:

1. In as much as the present use of the building on the subject lot is comprised of a mixture of retail, office and storage space (any residential use has long since terminated), the proposed use of retail, office and storage does not increase the extent of non-conformity.
2. The grant of a suitably conditioned Special Permit (III.D.4.a) would not be a substantial detriment to the public good.
3. The application is consistent with the criteria for a Special Permit set out in Section III.J of the Zoning Bylaw.
4. The traffic factors discussed in the previous decision are still a concern; the proposed use of a substantial area for retail purpose by an antiques business does not raise additional traffic concerns, but that the use of a similar area for retail purpose by a different business might raise additional concerns.

**Relief Granted:**

By vote of 4-0:

The Zoning Board of Appeals hereby modifies the existing Special Permit granted to Todd and Lori Allen for use of the premises at 135 Main Street, Medway, MA 02053 for retail, office and storage space by rendering such use subject to the condition that the space designated for retail use shall not exceed 3,696 square feet provided at least 2,000 square feet of that space shall be occupied by a retail antiques business. If at least 2,000 square feet of space is not occupied by a retail antiques business then the permitted retail space shall revert to 1,600 square 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.**



David J. Cole, Chairman



Eric Arbeene



Carol Gould

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William Kennedy

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Craig Olsen