

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

**IN THE MATTER OF: Richard and Deborah Carlson
Petitioners**

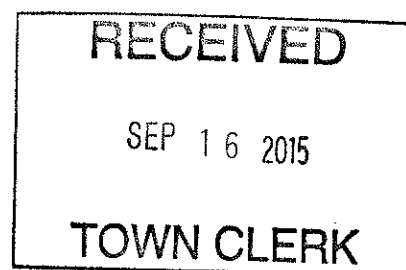
OPINION OF THE BOARD

**REQUEST FOR A VARIANCE
9 Cider Mill Road, Medway, MA**

**Hearing: September 2, 2015
Decision: September 2, 2015**

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

THE WRITTEN OPINION WAS DELIVERED ON September 16, 2015



*30 day Oct 6, 2015
Appeal*

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, Richard and Deborah Carlson, request a Variance from the requirements of Section 6.1 Table 2 to allow for a 5 foot side setback where a minimum of 15 feet is required for placement of a shed located at 9 Cider Mill Road, Medway.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on August 13 and 20. 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 opened and closed on September 2, 2015. The Medway Zoning Board of Appeals Members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; and Brian White, Associate Member.

At the hearing, no members of the public spoke in favor or in opposition of the application. Correspondence from an abutter and the Conservation Agent was received and entered into the record.

Hearing Summary

The applicants, Richard and Deborah Carlson, appeared before the Board to request a Variance to allow for a 5 foot side setback where a minimum of 15 feet is required for placement of a shed, located at 9 Cider Mill Road, Medway.

Mr. Carlson explained the request for relief to place a 10' x 10' shed in the side setback adjacent to their neighbor at 11 Cider Mill Road. He further explained that the house is located on the left side of the driveway. There is a downward slope at the end of the driveway towards the rear of the property. He added that there are wetlands situated on the rear corner of the lot. Also, behind the house there is an in-ground pool. And the area in front of the house is where the septic system is located. Therefore the only feasible location for placement of the shed is to the right of the driveway. Mr. Carlson noted that the Conservation Agent performed a site visit and found that the proposed location was 94 feet from the wetlands which would have required a filing with the Conservation Commission. As a result, the applicants decided to move the proposed location of the shed 7 feet closer to street but that this change does not modify the request for relief from the side setback requirement from the Zoning Board of Appeals.

The Board questioned the applicant on how this request meets the criteria for a Variance according to Massachusetts General Laws Chapter 40A and the Town's Zoning Bylaw, how the shed will be placed on the property and the distance from the neighboring structure.

Findings:

By a vote of 4-0-0:

1. The applicants established that the topography of the lot includes a steep downward slope towards the rear of the lot and the presence of wetlands renders this portion of the lot inadvisable for placement of a shed.
2. The presence of an in-ground pool precludes the proposed shed from being placed in the rear behind the existing house.
3. The presence of an extensive septic system between the existing house and the front lot line precludes the shed from being located in this area.
4. The location of the shed proposed by the applicants is the only practical location on the subject lot and in relation to existing site constraints.
5. In view of the foregoing findings, the applicants established that the lot is subject to circumstances relating to shape and topography especially affecting such lot but not generally affecting the zoning district in which the subject lot is located and that a literal enforcement of the provisions of this Bylaw would involve substantial hardship and that the desired relief may be granted without substantial detriment to the public good.

Relief Granted:

By a vote of 4-0-0:


The Zoning Board of Appeals hereby grants to the applicants, Richard and Deborah Carlson, a Variance under Section 6.1 Table 2 of the Medway Zoning Bylaw to vary the side setback on the south side of the lot for the placement of a 10' x 10' shed on property located at 9 Cider Mill Road in accordance with the plans submitted.

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 17, no variance 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, Associate Member