

**COMMONWEALTH OF MASSACHUSETTS**

**NORFOLK, SS**

**IN THE MATTER OF:     William J. Blenkhorn  
                                  Petitioner**

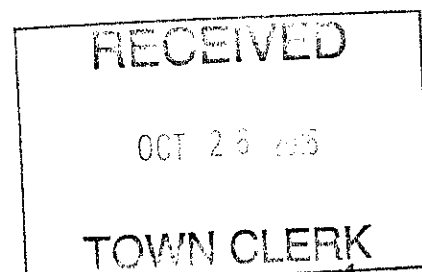
**OPINION OF THE BOARD**

**REQUEST FOR A VARIANCE  
15 High Street, Medway, MA**

**Hearing: October 7, 2015  
Decision: October 7, 2015**

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

**THE WRITTEN OPINION WAS DELIVERED ON October 21, 2015**



*30 Day Appeal  
Date Paid 16, 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 Bylaw of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioner, William Blenkhorn, requests a Variance from the requirements of Section 6.1 Table 2 to allow for a 4 foot side setback where a minimum of 15 feet is required for an existing shed on the property located at 15 High 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 September 23 and 30. 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 October 7, 2015. 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 and Brian White, Associate Member.

At the hearing, one resident inquired about the location of the shed and noted the amount of refuse. There are two sheds located on the property and it was the shed located near Owl Street to which he was referring to but not the shed which is the subject of the application. There were no members of the public which spoke in favor or in opposition of the application. Correspondence from the Conservation Agent was received and entered into the record.

### **Hearing Summary**

The applicant, William Blenkhorn, appeared before the Board to request a Variance to allow for a 4 foot side setback where a minimum of 15 feet is required for an existing shed on the property located at 15 High Street, Medway.

Mr. Blenkhorn explained the request for relief to an existing shed which is located in proximity to the northern property line. He had applied to the Building Department for a permit to build a deck at his house and was informed at that time that the location of the shed was not in compliance with the minimum setback required under the Zoning Bylaw. The shed has been in this location for over 10 years and the applicant was not aware of the requirements. This area of the abutting property is a wooded section. Much of the property is a hill and offers very few places to install a shed. Its present location offers a relatively flat area for its positioning. The shed itself doesn't require a permit from the Building Department as it is 120 square feet.

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, and the distance from neighboring houses. The applicant provided pictures to show the shed, in its present location, is still 30-35 feet away from nearby buildings. The Board also inquired about other potential locations on the property. It was noted that there was no other location for the shed and the request for a variance was found to be reasonable.

**Findings:**

By a vote of 5-0-0:

1. The applicant established circumstances relating to the topography of the subject lot especially affecting the lot but not affecting generally the zoning district in which the lot is located which would cause a literal enforcement of the provisions of this Bylaw to involve substantial hardship to the applicant, and that the topography of the lot renders it extremely difficult to locate the shed in any other place than the present location.
2. The applicant established that the nearest building on the opposite side of the relevant side lot line was in excess of 30 feet from this side lot line and that accordingly desirable relief may be granted without substantial detriment to public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

**Relief Granted:**

By a vote of 5-0-0:

The Zoning Board of Appeals hereby grants to the applicant, William Blenkhorn, a Variance under Section 6.1 Table 2 of the Medway Zoning Bylaw to permit the shed adjacent to northern side lot line of the subject lot to remain in its present location with a reduction in the side setback requirement from 15 feet to 4 feet on property located at 15 High Street 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

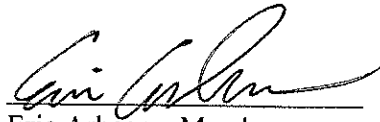
decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, is recorded in the Norfolk County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded 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 Arbene, Member

William Kennedy, Member



Brian White, Associate Member