

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF:     **Michael and Anh Fahey**  
                                  **Petitioners**

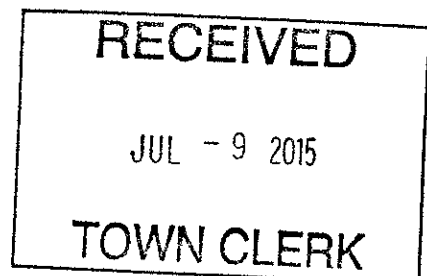
OPINION OF THE BOARD

REQUEST FOR A VARIANCE  
208 Village Street, Medway, MA

Hearing: May 6, 2015  
Decision: July 1, 2015

MEMBERS PRESENT:     **David J. Cole, Chairman**  
                                  **Carol Gould**  
                                  **William Kennedy**  
                                  **Craig Olsen**

THE WRITTEN OPINION WAS DELIVERED ON July 8, 2015



*20 day appeal date  
July 29, 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, Michael and Anh Fahey, request a Variance from the requirements of Section V.F.1 to allow for poultry on land having a total area less than 44,000 square feet located at 208 Village 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 April 22 and 29. 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 on May 6, 2015 and was continued without testimony to May 20, 2015. Additional sessions were held on May 20, 2015; June 17, 2015 and July 1, 2015. The Public Hearing closed on July 1, 2015. The Medway Zoning Board of Appeals Members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; William Kennedy; and Craig Olsen. Mr. Olsen participated remotely on June 17, 2015 pursuant to the Massachusetts Open Meeting Law regulations 940 CMR 29.00.

At the hearing, three members of the public spoke in favor of the application. Several emails from residents were received in support of the application and entered into the record.

### **Hearing Summary**

The applicants, Michael and Anh Fahey, appeared before the Board to request a Variance to allow for poultry on land having a total area of less than 44,000 square feet, located at 208 Village Street, Medway.

Mr. Fahey stated that over 4 years ago he went to Town Hall and inquired about having chickens. He was informed that they cannot have roosters and if they were to have less than 10 chickens then no permit is required. The Faheys have been raising chickens for over four years with no issues. Their property is 0.55 acres with a fenced-in yard and includes numerous trees to reduce any possible noise from the chickens. Having chickens has reduced the need for pesticide use. Mr. Fahey added that the chickens have been an educational asset for not only his kids but many other kids as well. Recently, he learned from the Building Inspector and Animal Control Officer that chickens are prohibited on a lot of less than 44,000 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.

**Findings:**

By a vote of 3-1-0 (Mr. Kennedy dissenting):

The applicants failed to demonstrate circumstances relating to soil condition, shape, and topography of the subject lot, which especially affects such land but not affecting generally the zoning district which it is located, sufficient to overcome the specific prohibition written in Section V.F.1 of the Medway Zoning By-Law that livestock and poultry are prohibited on premises having a total land area of less than 44,000 square feet.

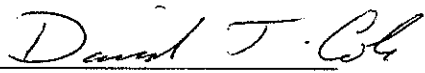
**Relief Denied:**


By a vote of 3-1-0 (Mr. Kennedy dissenting):

In view of the foregoing finding, the Zoning Board of Appeals hereby denies the request for a Variance from Section V.F.1 to Michael and Anh Fahey for 208 Village Street, Medway to allow for poultry on land having a total area less than 44,000 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.***

  
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David J. Cole, Chairman

  
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Carol Gould

  
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William Kennedy

  
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Craig Olsen