

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF: **Stephen and Sarra Forrester**
 Petitioners

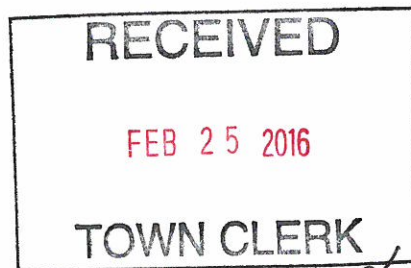
OPINION OF THE BOARD

REQUEST FOR A SPECIAL PERMIT
27 Charles Street, Medway, MA

Hearing: February 17, 2016
Decision: February 17, 2016

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

THE WRITTEN OPINION WAS DELIVERED ON February 25, 2016



*30 day appeal date
March 16, 2016*

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, Stephen and Sarra Forrester, request a Special Permit under Section 5.5 of the Zoning Bylaw to demolish the existing single family home and construct a new single family home on their property which is currently non-conforming located at 27 Charles 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 February 3 and 10. 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 following documents were received by the Board and included as part of the Application and file for this case:

1. Application received and stamped by the Town Clerk and Board of Appeals on January 26, 2016.
2. Existing Conditions Plan for 27 Charles Street, dated January 15, 2016, prepared by GLM Engineering Consultants, Inc. of 19 Exchange Street, Holliston, MA 01746 received with the Application.
3. Proposed Housing Plan for 27 Charles Street, dated January 15, 2016, prepared by GLM Engineering Consultants, Inc. of 19 Exchange Street, Holliston, MA 01746 received with the Application.
4. Proposed Elevations and Floor Plans for Prestige 2 Story, dated 8/17/2015 revised 10/2/2015, prepared by Professional Building Systems, Inc. of 72 East Market Street, PO Box 219, Middleburg, PA 17842 received with the Application.
5. Copy of letter from Medway Historical Commission, dated November 5, 2015, received by email from Sarra Forrester on February 3, 2016.

The Public Hearing opened and closed on February 17, 2016. 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 Craig Olsen, Member. The Board voted on the request for a special permit on February 17, 2016.

At the hearing, the Board received correspondence from the direct abutters sent by email in favor of the application. The applicant also provided to the Board correspondence from nearby neighbors in support of the application. There were no members of the public present at the hearing that spoke in favor or opposition of the application.

Hearing Summary

The applicant, Stephen Forrester, and his engineer, Rob Truax of GLM Engineering Consultants, Inc., appeared before the Board to discuss the request for a Special Permit for the

property located at 27 Charles Street.

Mr. Forrester explained the request for a special permit from the Board. He would like to demolish the existing single family home, shed and garage on the property and construct a new single family home with attached garage and above ground pool on the property. The house was built in the 1800's which predates the Zoning Bylaw. The property does not meet the frontage and minimum lot area requirements as referenced in the Zoning Bylaw for the Agricultural-Residential II Zoning District and thus the single family home is pre-existing nonconforming. Mr. Truax stated that the proposed new single family house will be an increase in the footprint and height over the existing house.

The Board asked questions relating to the proposed height and expanded footprint of the proposed new single family home to be constructed and if it would meet the required setbacks. Mr. Truax responded that it would meet all the necessary setbacks. The Board sought clarification of the front lot line. The Board also inquired if the proposed house was to be built on slab or over basement as there was no foundation plan included in the application. Mr. Truax explained that the new dwelling was a modular home. The proposed house will have a height of 29 feet to the ridge line plus a few more inches for a foundation. The Board questioned the distance to structures on adjacent lots.

Findings:

By a vote of 5-0-0:

1. The Board finds that the applicant demonstrated that the existing dwelling is pre-existing nonconforming and at least 80 years old and that both the dwelling and the current street layout thus preceded the adoption of the Zoning Bylaw in Medway.
2. The Board finds that the proposed new construction will increase the extent of nonconformity by increasing the maximum height of the structure and increasing the footprint of the dwelling portion of the existing structure.
3. The Board finds that the proposed construction will not be substantially more detrimental to the neighborhood than the existing nonconforming structure in as much as the height of the proposed construction does not exceed that expected for a normal two story single family dwelling of which there are several in the existing neighborhood, and that the proposed construction is sufficiently well spaced from all lot lines and from buildings on adjacent lots that it should not have any significant detrimental effects on any of its neighbors.

Relief Granted:

By a vote of 5-0-0:

The Zoning Board of Appeals hereby grants a Special Permit under Section 5.5 of the Medway Zoning Bylaw to the applicants, Stephen and Sarra Forrester of 27 Charles Street, Medway, to allow for the construction of a new single family dwelling with adjacent above ground pool on the property substantially in accordance with the plans presented.

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.



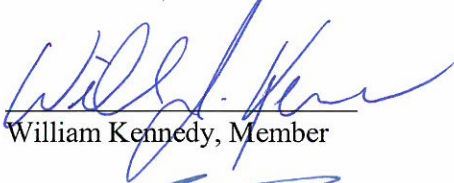
David J. Cole, Chairman



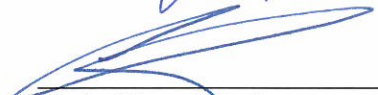
Carol Gould, Clerk



Eric Arbeene, Member



William Kennedy, Member



Craig Olsen, Member