



Town of Scituate  
Planning Board  
**Accessory Dwelling Special Permit – 147 Border Street**

Decision: APPROVED with Conditions  
Owner: R. Stephen & Kristen Lilly  
Applicant: R. Stephen & Kristen Lilly  
Date: May 28, 2013  
Location: 147 Border Street  
Assessor's Map # 6-02-09  
Plans: Site & Sewage "Carriage House" #147 Border Street in Scituate, Sheet 1 of 5, Sheet 2 of 5, Sheet 5 of 5 prepared for applicant/owner R. Stephen Lilly dated 4/15/13 by EAS Survey, Inc., 141 RT. 6A PO Box 1729 Sandwich, MA 02563; Photo page Carriage House 147 Border Street dated 3/25/13; First Floor Plan Sht. 1 of 4, Second Floor Plan Sht. 2 of 4, Second Floor Area Plan Sht. 3 of 4, Second Floor Egress Plan Sht. 4 of 4 Carriage House 147 Border Street dated 3/25/13 prepared by EAS survey, Inc. submitted with this application.

Members Hearing Special Permit Application: William Limbacher, Chairman; Stephen Pritchard, Richard Taylor, Robert Vogel and Eric Mercer.

**Background:** The property is located in the Residential R-2 Zoning District on a lot of approximately 135,000 sq. ft. The applicant would like to legitimize an existing accessory dwelling unit located on the second story of a detached three car garage/carriage house at 147 Border Street. It is proposed to be authorized as a second legal living unit on the same lot through approval of an accessory dwelling special permit by the Planning Board. The detached accessory dwelling is approximately 784 sq. ft. There is 547 sq. ft. of living space with headroom of at least 7'4" and 237 sq. ft. in the eaves area space. There exists a single bedroom, living room, kitchen and bathroom in the accessory dwelling. There exists one form of ingress and egress and a second egress point is proposed. The Assessor's records indicate that the living area of the existing home is 4,032 sq. ft. The floor area of the accessory dwelling will be 13.6% of the living area of the primary dwelling (area w/headroom over 7'4"). The applicant has signed an affidavit stating that he will occupy one of the dwelling units on the premises.

**Procedural Summary:** This request for a Special Permit was filed with the Town Clerk and the Planning Board on May 1, 2013. A Public Hearing before the Planning Board was duly advertised and notices sent to all abutters in accordance with MGL Chapter 40A. The hearing was opened May 23, 2013 and closed on the same date when the Planning Board approved the Special Permit with conditions.

**Hearing Summary:** Attorney Steven Guard and Kristen Lilly were present for the applicant. Attorney Guard indicated the application is to legitimize an accessory dwelling on the second floor of a detached garage/carriage house at 147 Border Street. He indicated the accessory dwelling would be approximately 784 sq. ft. with 547 of that area being living space with headroom of at least 7'-4" and 237 sq. ft. in the eaves space. The primary dwelling is 4,032 sq. ft. Based on the floor area with height of 7'4" or greater, the floor area of the accessory dwelling will be 13.6% of the living area of the primary dwelling which is less than the 40% maximum in the bylaw. An application to the Board

of Health is pending for an upgrade from a 4 bedroom septic system to a 5 bedroom system. Ample parking exists on site in the driveway and carriage house. The carriage house was built in 2000 and met code at the time; however a second means of egress is needed for the accessory dwelling. A deck and stairs are being added in the rear and side. The accessory dwelling will have one bedroom, bathroom, living room and galley kitchen. The owners are aware they are required to live in either the primary or accessory dwelling and a new certification needs to be filed with the Board if there is a change in ownership. The property is serviced by well water. Attorney Guard indicated that he has spoken with the Conservation Agent and the septic work will be in the Riverfront area and not in the buffer zone so a Request for Determination will likely be required. Attorney Guard indicated the owners would just like to legitimize the unit.

**Public Comment:** The Planning Board received a comment letters from the Director of Public Health, Jennifer Sullivan, who indicated the septic system design must be approved and constructed before occupancy and a satisfactory second egress must be provided. Patrick Gallivan, Conservation Agent indicated that a filing with Conservation is required for work in the riverfront area. No one spoke for or against the project at the hearing.

**Findings of fact:** A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 147 Border Street.

1. According to Town of Scituate Assessor's records, the property as 147 Border Street is owned by R. Stephen and Kristen Lilly.
2. On April 30, 2013, R Stephen and Kristen Lilly applied for a special permit for an accessory dwelling through their attorney Steven M. Guard. The accessory dwelling will be on the second floor of a detached three car garage/carriage house at 147 Border Street.
3. The property is located in the Residential R-2 zoning district on a lot of approximately 135,000 sq. ft.
4. According to the Assessor's Records, the floor area of the primary dwelling is 4,032 sq. ft. The floor area of the accessory dwelling as shown on the plan is approximately 784 sq. ft. There is 547 sq. ft. of living space with headroom of at least 7'-4" and 237 sq. ft. in the eaves area space.
5. The floor area of the accessory dwelling will be 13.5% of the living area of the primary dwelling which is less than the 40% maximum in the bylaw. It meets the requirements of 530.2F for accessory dwellings.
6. The site plan shows the 3 car garage/carriage house and circular driveway for the house. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
7. The applicant has submitted a signed, notarized statement that he will live on the property.
8. The application meets the standards of Scituate Zoning Bylaw Section 530 for an Accessory Dwelling Special Permit.

**Decision:** A motion was duly made and seconded to approve the Accessory Dwelling Special Permit for 147 Border Street with the following conditions:

1. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department and other town agencies.

2. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled Site & Sewage "Carriage House" #147 Border Street in Scituate , Sheet 1 of 5, Sheet 2 of 5, Sheet 5 of 5 prepared for applicant/owner R. Stephen Lilly dated 4/15/13 by EAS Survey, Inc., 141 RT. 6A PO Box 1729 Sandwich, MA 02563; Photo page Carriage House 147 Border Street dated 3/25/13; First Floor Plan Sht. 1 of 4, Second Floor Plan Sht. 2 of 4, Second Floor Area Plan Sht. 3 of 4, Second Floor Egress Plan Sht. 4 of 4 Carriage House 147 Border Street dated 3/25/13 prepared by EAS survey, Inc.
3. The property at 147 Border Street shall contain a maximum of two dwelling units, the existing dwelling and the accessory dwelling as proposed. The footprint, number of bedrooms and/or square footage shall not be increased without prior approval of the Planning Board.
4. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit.
5. The Planning Board will require an on-site inspection for conformance to the approved plans and these conditions prior to a Certificate of Occupancy being issued for the accessory dwelling.
6. No on-street parking shall be permitted.
7. The applicant will be required to upgrade the septic system to comply with Title V per the Board of Health requirements.
8. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of the date of filing with the Town Clerk. The owner shall provide proof of this recording to the Planning Board.
9. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
10. The Planning Board reserves the right to review compliance with this special permit at any time. This Special Permit shall terminate if the use is not in accordance with this decision and its conditions.
11. At the request of the Planning Board, an affidavit shall be provided that either the primary or accessory unit is owner occupied.
12. At each transfer of ownership of the property, a new affidavit that the owner resides on the property shall be provided to the Planning Board.

**Vote:**

Based on the Findings of Fact and the evidence and information provided by the applicant and obtained through the public hearings, the members of the Planning Board hearing this application voted unanimously to approve the Special Permit for an Accessory Dwelling at 147 Border Street with the conditions noted above.

5/23/2013

Date

SCITUATE PLANNING BOARD

Richard W. Taylor

William Lubacher

Robert B. Vogel

Stephen R. Sullivan

This decision was filed with the Town Clerk on 5/28/13  
date

Appeal of this special permit may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.

This special permit will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds, after the expiration of the appeal period of twenty (20) days.

The Planning Board certifies that it has complied with all statutory requirements of MGL Chapter 40A, Sections 9 and 11, and will file copies of this decision with the Town Clerk. The Planning Board further certifies that it has taken into consideration all testimony rendered at the Public Hearing, the comments and suggestions of other boards which have reviewed and made comments on the plans, and all plans and documents submitted by the applicant.