



Town of Scituate  
Planning Board  
**Accessory Dwelling Special Permit – 5 Third Avenue**

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Decision: APPROVED with Conditions  
Owner: Susan D. & Jason B. Costello and Anne & Anthony J. Dionisio Jr.  
Applicant: Susan D. & Jason B. Costello and Anne & Anthony J. Dionisio, Jr.  
Date: October 1, 2012  
Location: 5 Third Avenue  
Assessor's Map # 34-09-001

Plans: The plans submitted with the application are entitled Costello/Dionisio 5 Third Ave Sheet A0-1 Area Plans, Sheet A2-B Basement Floor Plan, Sheet A2-1 First Floor Plan, Sheet A2-2 Second Floor, Sheet A2-3 Third Floor and Sheet A4-1 Exterior Elevations. All sheets are undated with no preparer information. Also submitted were floor plans of the existing dwelling, A1 First Floor, A2 Second Floor and A2.1 Attic Plan, for the Nadeau Residence dated 12/7/2004 prepared by the Sandcastle Group, 600 Plain Street, Marshfield, MA.

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

**Background:** The property is located in the Residential A-3 Zoning District. It contains an existing accessory dwelling of approximately 424 square feet approved January 13, 2005. The affordable accessory dwelling status was removed in January 2012 when the Planning Board and Board of Selectmen voted to remove the deed restriction and an Accessory Dwelling Special Permit was issued for the property for this unit.

With the current application, the floor area of the primary dwelling is proposed to be enlarged from approximately 1,914 sq. ft. to 2,786 sq. ft. through the addition of a finished rec room in the basement and third floor living space. The accessory dwelling is proposed to be increased from 424 to 1,095 sq. ft.

**Procedural Summary:** This request for a Special Permit was filed with the Town Clerk and the Planning Board on August 7, 2012. 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 September 27, 2012 and also closed on this date, when the Planning Board approved the Special Permit with conditions.

**Hearing Summary:** One of the applicants, Jason Costello, attended the hearing representing the owners. Mr. Costello explained he wants to increase the areas of the accessory and primary dwellings. They propose to increase the accessory dwelling from 424 sq. ft. to 1,095 sq. ft. and make the accessory unit the entire first floor. The applicants propose to finish the vacant third

floor with a kitchen and living room for the primary dwelling. The primary dwelling will have 3 bedrooms on the second floor and an exterior stair case would be added from the office area to the outside to provide for a secondary means of egress. 294 sq. ft. of the basement is proposed to be finished for a recreation room.

**Public Comment:** No one spoke in favor or against the application.

**Findings of fact:** A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 5 Third Avenue:

1. On January 13, 2005 the Planning Board approved a site plan administrative review authorizing construction of an affordable accessory dwelling at 5 Third Avenue. On January 12, 2012, the Planning Board approved an Accessory Dwelling Special Permit for the property removing the affordable restriction. The accessory and primary dwelling footprints are the same as originally permitted.
2. On August 7, 2012, the new owners submitted an application for an Accessory Dwelling Special permit to increase the sizes of the accessory and primary dwelling units. The applicants propose to make the accessory dwelling unit 1,019 sq. ft. from 424 sq. ft. The accessory unit would be the entire first floor and contain 1 bedroom. The applicants propose to finish the vacant third floor with a kitchen and living room for the primary dwelling. The primary dwelling will have 3 bedrooms on the second floor and an exterior staircase would be added from the office area to the outside to provide for a secondary means of egress. 294 sq. ft. of the basement is proposed to be finished for a recreation room.
3. The plans submitted with the application are entitled Costello/Dionisio 5 Third Ave Sheet A0-1 Area Plans, Sheet A2-B Basement Floor Plan, Sheet A2-1 First Floor Plan, Sheet A2-2 Second Floor, Sheet A2-3 Third Floor and Sheet A4-1 Exterior Elevations. All sheets are undated with no preparer information. Also submitted were floor plans of the existing dwelling, A1 First Floor, A2 Second Floor and A2.1 Attic Plan, for the Nadeau Residence dated 12/7/2004 prepared by the Sandcastle Group, 600 Plain Street, Marshfield, MA.
4. The area of the proposed accessory dwelling will be 1,019 sq. ft. The area of the primary dwelling will be 2,786 sq. ft. The area of the proposed accessory dwelling is less than 40% of the area of the primary dwelling, so the area meets the requirements of 530.2 F for accessory dwellings.
5. An excerpt from a site plan for 5 Third Avenue shows an 18 to 20' wide driveway and approximately 22' wide garage on the property. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
6. The applicants have agreed that they are owners and occupy the property.
7. 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 5 Third Avenue 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. The property at 5 Third Avenue 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.
3. The owners of the property shall reside on the property as long as it contains an accessory dwelling unit. The owners of the property shall provide yearly certifications on October 1 of every year that they are residing on the property.
4. Except for any changes necessary to meet these conditions, any construction shall conform to the Area Plans, Basement Floor Plan, First Floor Plan, Second Floor , Third Floor and Exterior Elevations, for Costello/Dionisio 5 Third Ave submitted with this application.
5. No on-street parking shall be permitted.
6. 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.
7. 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.
8. This Special Permit shall terminate if the use is not in accordance with this decision and conditions.
9. The Certificate of Occupancy for the Accessory Dwelling shall not be issued until the Certificate of Occupancy for the primary dwelling is obtained.

**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 5 Third Avenue with the conditions noted above. William Limbacher, Daniel Monger, Richard Taylor, Robert Vogel and Eric Mercer voted in favor of the motion to approve with the conditions listed above.

9/27/12  
Date

SCITUATE PLANNING BOARD

Richard W. Taylor  
[Signature]  
William Limbacher  
[Signature]  
[Signature]  
[Signature]

This decision was filed with the Town Clerk on September 28, 2012  
ke 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.