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Town of Scituate
Planning Board

Accessory Dwelling Special Permit – 41 Mordecai Lincoln Road

Decision: APPROVED with Conditions
Owners: William M. Hale, Trustee of the Forty One Mordecai Lincoln Rd Realty Trust
Applicant: William M. Hale, Trustee of the Forty One Mordecai Lincoln Rd Realty Trust
Date: May 15, 2012
Location: 37/41 Mordecai Lincoln Road
Assessor's Map # 12-4-26 & 27
Plans: Mordecai Lincoln Rd Floor Plan and ANR Plan of Land at 41 Mordecai Lincoln Road Scituate, MA Assessors' Lot 12-4-26 & 27 revised dated 4/16/2012 prepared by mr Surveying, Inc. for William M. Hale of 41 Mordecai Lincoln Rd.
Members Hearing Special Permit Application: William Limbacher, Chairman; Daniel Monger, Dr. Nico Afanasenko, Robert Vogel and Eric Mercer.

Background: The property is located in the Residential R-2 Zoning District. The applicant owns two adjacent properties, a single family home at 41 Mordecai Lincoln Rd. and a second single family home of 1,200 sq. ft. at 37 Mordecai Lincoln Rd. He is proposing to add a three car garage at #41, convert the existing one-car garage to a living room and adding a mudroom. Altogether these additions increase the living area by about 1,050 sq. ft. The new garage will extend over the property line, requiring the two properties to be combined as one lot. The smaller house 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, and the two lots are proposed to be combined by a Form A Plan. The area of the accessory dwelling is less than 40% of the existing primary dwelling and parking and garage space appear very adequate. While the front setback of the accessory dwelling does not meet the 30' requirement, it can meet the average front setback provision of Scituate Zoning Bylaw Section 620.4 A. The applicant has signed an affidavit stating that he will occupy the 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 April 9, 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 May 10, 2012 and also closed on this date, when the Planning Board approved the Special Permit with conditions.

Hearing Summary: Attorney Michael Hayes was present for the applicant. Richard Anastos, Mr. Hale's property manager was also present. Attorney Hayes indicated that Mr. Hale lives at 41 Mordecai Lincoln Road. He purchased 37 Mann Lot Rd. with the intent to raze it for his septic system, but he now desires to keep it as the single family home can be used as an accessory dwelling. He wishes to add a three bay garage and a small addition to 41 Mordecai Lincoln Rd. The garage addition will go over the existing property line, thus the lots are proposed to be combined on a Form A Plan. The livable area of the existing primary dwelling is 3,719 sf. With the addition it will be 4,451 sf. The accessory dwelling will be 1,399 sf. It is 37.6% of the primary dwelling, below the 40% requirement, and with the new additions it will be 31.4%. Jennifer Sullivan, Board of Health Director had some septic system concerns. Plans for a new six bedroom septic system will be submitted if the Special Permit is approved.

Attorney Hayes reviewed the Standards for a Special Permit under Scituate Zoning Bylaw Section 530.2. and described how the proposed accessory dwelling will meet each of the required criteria.

The Planning Board inquired about the setback from the riverfront area for the soil absorption system (SAS). The setback for the riverfront is 200 feet, and the location of the septic system will need to be approved by the Conservation Commission if it is within this area. The Planning Board also asked about the average setback and confirmed the new building improvements will be further behind the existing building for 41 Mordecai.

A Form A Plan to combine the separate lots at #37 and #41 into a single lot was also submitted for endorsement at the May 10, 2012 meeting. The Planning Board voted unanimously to endorse the Form A Plan.

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 37/ 41 Mordecai Lincoln Road.

1. On April 9, 2012, the owner of the property applied for a special permit for an accessory dwelling.
2. The plans submitted with the application are Mordecai Lincoln Rd Floor Plan and ANR Plan of Land at 41 Mordecai Lincoln Road Scituate, MA Assessors' Lot 12-4-26 & 27 revised dated 4/16/12 prepared by mr Surveying, Inc. for William M. Hale of 41 Mordecai Lincoln Rd.
3. The area of the house proposed for an accessory dwelling is 1,399 sq. ft. The floor plans show the floor area of the primary dwelling with the proposed additions to be 4,451 sq. ft.
4. The floor area of the accessory dwelling is 31.4% of the floor area of the primary dwelling including the proposed first and second floor additions. This meets the area requirements of 530.2F for accessory dwellings.
5. The site plan by mr Surveying, Inc. shows a driveway and three car garage for the primary dwelling and a separate garage and driveway for the accessory dwelling. This appears adequate to provide tow parking spaces for the accessory dwelling and ample parking for the primary dwelling.
6. The setback is considered to meet the requirements of the bylaw because the average front setback provision of the Scituate Zoning Bylaw Section 620.4 A will be used.
7. The applicant has submitted a signed, notarized statement that he will live in the primary dwelling and his successors in title 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 37/41 Mordecai Lincoln Road with the following conditions:

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

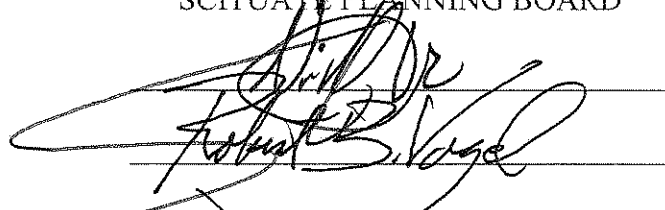
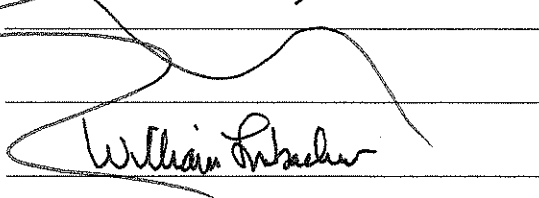
2. The property at 41 Mordecai Lincoln Road shall contain a maximum of two dwelling units, the existing dwelling and the accessory dwelling as proposed. The footprint, number of bedrooms and/or square footage shall not be increased without prior approval of the Planning Board.
3. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit.
4. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled Mordecai Lincoln Rd Floor Plan and ANR Plan of Land at 41 Mordecai Lincoln Road Assessor's Lot 12/4/26 & 27 revised dated 4/16/2012 prepared by mr Surveying, Inc. for William M. Hale, Trustee submitted with this application.
5. The applicant will be required to upgrade the septic system to comply with Title V per the Board of Health requirements. The system must be 20 feet from the garage.
6. No on-street parking shall be permitted.
7. 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.
8. 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.

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 41 Mordecai Lincoln Road with the conditions noted above. William Limbacher, Daniel Monger, Dr. Nico Afanasenko, Robert Vogel and Eric Mercer voted in favor of the motion to approve with the conditions listed above.

May 10, 2012
Date

SCITUATE PLANNING BOARD

This decision was filed with the Town Clerk on May 15, 2012
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.