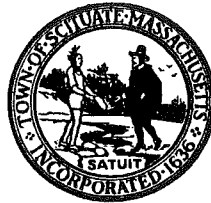


TOWN OF SCITUATE



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Planning Board

Accessory Dwelling Special Permit – 21 Cole Parkway (aka 1 Cole Parkway) Decision: APPROVED with Conditions

Owner: Asneny, LLC (Douglas C. Smith, Manager)
Applicant: Asneny, LLC (Douglas C. Smith, Manager)
Date: February 15, 2019
Location: 21 Cole Parkway (aka 1 Cole Parkway)
Assessor's Map: # 50-7-23-0

Plans: Proposed accessory dwelling floorplan submitted with the application on 1/16/2019; Plan of Land in Scituate, Mass. Revised dated January 20, 1940 prepared by Daniel F. Appleton, Surveyor, Scituate, Mass.

Members Hearing Special Permit Application: Ann Burbine, Stephen Pritchard, Benjamin Bornstein, William Limbacher and Patricia Lambert.

Background: The property is located in the Harbor Business District and Village Business Overlay District on a lot of approximately 7,145 sq. ft. The footprint of the existing building on the property encompasses virtually the entire property. The existing building contains the Watson Family Hardware Store and the Coffee Corner on the first floor, the Satuit Bowlway on the second floor and an office for the bowling alley on the third floor. Patrons of the building park in Cole Parkway or on Front Street as there is no parking associated with the site. Mr. Smith has owned the building since 1985, three years prior to the adoption in January 1, 1988 of parking requirements in the town of Scituate Zoning Bylaw.

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APPROVED

The applicant is the owner of a three story building and would like to create a one bedroom accessory dwelling of approximately 1,280 sq. ft. on the third floor. The applicant will convert the third floor office space to an apartment with a one bedroom, living room, kitchen and bathroom. The total area of the accessory dwelling is 9.85% of the total square footage of the building which is 12,992 sq. ft. according to Town of Scituate Assessor's records. The proposed accessory dwelling is a subordinate part of the business structure and its size is unrestricted due to being above a business. It is proposed to be authorized as a legal living unit through approval of an accessory dwelling special permit by the Planning Board. The applicant has signed a notarized statement that he and his wife will occupy the accessory dwelling unit on the property.

The applicant has received a finding from the ZBA under MGL Ch. 40A, Section 6 and Sections 820 and 950.2D of the Scituate Zoning Bylaw that the "proposed conversion on the nonconforming bowling alley's office into a dwelling unit to be used by the proprietor of the bowling alley will not be substantially more detrimental or injurious to the neighborhood than the existing nonconforming use." Mr. Smith has owned the building since September 10, 1985, three years prior to the January 1, 1988 adoption of parking requirements set forth in the Scituate Zoning Bylaw. Patrons of the building park in Cole Parkway or Front Street as there are no on-site parking spaces available. The Zoning Board of Appeals (ZBA) found that the use of the bowling alley's office on the third floor of the building is pre-existing nonconforming and "structures and land uses in existence on January 1, 1988, are not subject to (off street parking requirements) so long as they are not enlarged or changed in a manner that increases their parking needs." The ZBA found that "the proposed conversion of the third floor office to a dwelling unit would decrease the net parking demand by three parking spaces, and therefore the Property is pre-existing, non-conforming as to the Zoning Bylaw's parking requirements."

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on January 16, 2019. 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 on February 14, 2019 and closed on the same date; the Planning Board approved the Special Permit with conditions including the Planning Board standard conditions.

Hearing Summary: The public hearing was opened on February 14, 2019 with the applicant's attorney, Jeffrey A. DeLisi present for the applicant. The Planning Board approved the accessory dwelling special permit with conditions.

Public Comment: The Planning Board received an email from Deputy Fire Chief Alfred Elliott, that he is concerned about fire alarm protection for the apartment and a fire alarm system may be required. There was no public comment 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 21 Cole Parkway (aka 1 Cole Parkway):

1. On January 16, 2019, Asneny, LLC (Douglas C. Smith, Manager) applied for a special permit for an accessory dwelling above a business on the property at 21 Cole Parkway (aka 1 Cole Parkway).

2. The proposed accessory dwelling unit will be on the third floor of a building above the businesses of Satuit Bowlaway, Watson Family Hardware and Coffee Corner. It is located above the first floor or street level. One accessory dwelling unit is proposed.
3. Based on a floor plan submitted by the applicant, the floor area of the proposed accessory dwelling will be approximately 1,280 net sq. ft. This is 9.85 % of the total square footage of the building which is 12,992 sq. ft. according to Town of Scituate Assessor's records. The accessory dwelling is a subordinate part of the business structure and its size is unrestricted under the Zoning Bylaw due to being above a business.
4. The Accessory dwelling unit will be a complete separate housekeeping unit that functions as a separate unit from the primary structure.
5. The accessory dwelling has been designed so the appearance of the building remains unchanged as much as feasibly possible except for an added door on the ground floor southerly side of the building (facing the bank) that is necessitated by the building code for secondary egress from an interior stair.
6. Mr. Smith has owned the building since September 10, 1985, three years prior to the January 1, 1988 adoption of parking requirements set forth in the Scituate Zoning Bylaw. Patrons of the building park in Cole Parkway or Front Street as there are no on-site parking spaces available. The Zoning Board of Appeals (ZBA) found that the use of the bowling alley's office on the third floor of the building is pre-existing nonconforming and "structures and land uses in existence on January 1, 1988, are not subject to (off street parking requirements) so long as they are not enlarged or changed in a manner that increases their parking needs." The ZBA found that "the proposed conversion of the third floor office to a dwelling unit would decrease the net parking demand by three parking spaces, and therefore the Property is pre-existing, non-conforming as to the Zoning Bylaw's parking requirements." Thus, even though the Property is exempt from parking requirements due to its grandfathered status, the proposed change would be less nonconforming than the existing parking conditions.
7. The owner has submitted a signed, notarized statement that he and his wife will be occupying the accessory dwelling on the property as their primary residence.
8. The accessory dwelling will be serviced by Town water and sewer. Any new connections will comply with the DPW requirements.
9. The applicant has received a finding from the ZBA under MGL Ch. 40A, Section 6 and Sections 820 and 950.2D of the Scituate Zoning Bylaw that the "proposed conversion on the nonconforming bowling alley's office into a dwelling unit to be used by the proprietor of the bowling alley will not be substantially more detrimental or injurious to the neighborhood than the existing nonconforming use."
10. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Decision: A motion was duly made and seconded to approve the Special Permit for an accessory dwelling above a business at 21 Cole Parkway (aka 1 Cole Parkway) with the following conditions and modified standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

1. Except for any changes necessary to meet these conditions or the State Building Code, any construction shall substantially conform to floorplan submitted with the application on 1/16/2019 and incorporated as part of this decision.
2. The number of bedrooms in the accessory dwelling is limited to one in the location and size indicated on the floor plan submitted with the application.
3. No further expansion of the accessory dwelling floor area is allowed without further review of the Planning Board.
4. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
5. Any lighting installed shall be down lighting to not shed light on abutting properties.
6. The Planning Board agrees to a waiver of the parking requirement for the accessory dwelling as there is a decrease in demand from the pre-existing nonconforming use and there is parking in Cole Parkway.
7. Construction work shall not begin prior to 7:00 am weekdays and 8:00 am on Saturdays and shall cease no later than 7:00 pm or sunset whichever is earlier. No construction shall take place on Sundays or legal/federal holidays. Construction includes idling of vehicles, delivery of materials to the site and all other construction activities.
8. The standard conditions for accessory dwellings approved by the Planning Board on 12/17/15 shall be conditions of this decision and shall be included for recording at the Registry of Deeds.
 - A. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department, Conservation Commission and other town agencies.
 - B. The property shall contain a maximum of one dwelling unit above a business as proposed. No further expansion is allowed without prior approval of the Planning Board.
 - C. An owner of the property or proprietor of any business operating out of the Property shall reside on the property as long as it contains an accessory dwelling unit.
 - D. The Planning Board may require an on-site inspection for conformance to the approved plans and these conditions prior to the issuance of a Certificate of Occupancy for the accessory dwelling.
 - E. An Accessory Dwelling Special Permit Certification of Ownership and Occupancy signed by any new owner shall be provided to the Planning Board within seven days

of the closing of the sale of the Property. It is recommended that this be signed at the closing.

- F. At any time, at the request of the Planning Board the owner shall provide a notarized affidavit indicating that the accessory unit is owner occupied.
- G. Construction vehicles/equipment shall not idle, be parked, stored, loaded or unloaded in the street.
- H. 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.
- I. 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.
- J. 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.

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 above a business at 21 Cole Parkway (aka 1 Cole Parkway) with the conditions noted above.

February 14, 2019

Date

SCITUATE PLANNING BOARD

Anna Burbines

Stephen R. Pulichano

~~B. A. J.~~

William L. Suber

Patricia A. Fournier

This decision was filed with the Town Clerk on February 15, 2019
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

32'
Front Street

BD RM
12x13

3RD FLOOR
SCALE 1/4"=1'

LIV RM
19x19'

20'

CL

4'

DN

REF



8x8' BATH

SLOPED CEILING
12' TORIDGE

20'

WATER
HEATER

D

W

DN

21- COLE PARKWAY

