

TOWN OF SCITUATE

Planning Board



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Scituate, Massachusetts 02066
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Accessory Dwelling Special Permit 63 Scituate Avenue Decision: APPROVED with Conditions

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2021 MAR 31 PM 3:30

TOWN OF SCITUATE
TOWN CLERK

Owner: David and Amy Mahery
Applicant: David and Amy Mahery
Date: March 31, 2021
Location: 63 Scituate Avenue
Assessor's Map: # 40-4-9

Plans: Architectural plans by OCO Architecture for 63 Scituate Avenue Scituate, MA Residential Addition and Renovation dated 1/13/21 with revisions through 2/5/2021 consisting of a cover sheet A000, Notes and Legend A001, Overall Floor Plan A100, First Floor/Garage Plan A101, Second Floor Plan A102, Roof Plan A103, Front Elevation A201, Rear Elevation A202, Side Elevation A203, Section thru New Dormer A301, Enlarged Plans A401, Enlarged Kitchen Plan A402; Foundation Location Plan 63 Scituate Avenue Scituate, MA dated 4/10/14 revised 10-29-14 prepared by Morse Engineering Co., Inc.

Members Hearing Special Permit Application: Ann Burbine, Stephen Pritchard, Benjamin Bornstein, Patricia Lambert, alternate Robert MacLean.

Background: The property is located in the Residential R-3 Zoning District on a lot of approximately 13,327 sq. ft. according to Town of Scituate Assessor's records and the Foundation Location Plan obtained for the application. The proposed attached accessory dwelling of 762 sq. ft. is on the second floor of an existing three car attached garage and is proposed to have a one-bedroom unit with a living/dining area, kitchen and bathroom. Based on a floor plan submitted by the applicant, the interior floor space of the accessory dwelling is approximately 762 gross sq. ft. It is proposed to be authorized as a legal living unit through

approval of an accessory dwelling special permit by the Planning Board. The total area of the accessory dwelling is 762 sq. ft. which is less than 40% of the total square footage of the primary dwelling as allowed in the zoning bylaw. The applicants have signed a notarized statement that he will occupy one of the units at 63 Scituate Avenue.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on February 18, 2021. 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 held remotely following COVID-19 procedures. The hearing was opened and closed on March 25, 2021 when the Planning Board approved the Special Permit with conditions including the Planning Board standard conditions.

Hearing Summary: The public hearing was opened on March 25, 2021 with the applicants David and Amy Mahery present along with their architect Paulette O'Connell of OCO Architecture and Design. Ms. O'Connell reviewed the project for an accessory dwelling on the second floor of an existing 3 car attached garage at 63 Scituate Avenue. She said the accessory dwelling will be 762 sq. ft. and it will be 22% of the square footage of the primary dwelling of 3,367 sq. ft. which is below the 40% requirement. She indicated it meets all zoning requirements and the home is on sewer. Ms. Burbine read the town comments which the Applicant indicated will be addressed. Ms. Mahery indicated the Water Department comment is a recommendation. Ms. Joseph concurred and said it benefits both parties. She said no on street parking is allowed. The Board confirmed there will be no new lighting and the renovations are generally to the interior with the exception of the dormers, a deck and exterior stairs.

Public Comment: William Branton of the DPW Sewer Division indicated the applicant would need to submit payment for a sewer connection fee for the dwelling which is currently \$8,000. Alfred Elliott, Deputy Fire Chief, indicated that the applicant will have to make sure the entire house complies with the current fire code which would mean all of the smoke, heat and CO alarms must be hardwired and interconnected, of photoelectric technology and also installed in each bedroom. The Board of Health commented that they had no comment. The Water Division is recommending a separate water service for the accessory dwelling as the Board of Selectmen recently voted for a fourth tier for water usage which is billed at a higher rate and may lead to higher bills in the warmer months.

Findings of fact: A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 63 Scituate Avenue:

1. On February 18, 2021 David and Amy Mahery applied for a special permit for an attached accessory dwelling on the property at 63 Scituate Ave.
2. According to the Town of Scituate Assessor's records and the deed, the property at 63 Scituate Ave. is owned by David and Amy Mahery.
3. Based on a floor plan submitted by the applicant, the floor area of the proposed accessory dwelling will be approximately 762 gross sq. ft. and 704 net sq. ft. The application indicates this is 23% of the total square footage of the primary dwelling which is 3,100 sq. ft. according to the Applicant. The Assessor's card indicates the net square footage of

the home to be 3,367 sq. ft. This meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings as the bylaw allows 750 sq. ft. or 40% of the total square footage of the primary dwelling, whichever is greater. The accessory dwelling is subordinate to the existing single-family home.

4. The Accessory dwelling unit will be a complete separate housekeeping unit and there will be only one accessory dwelling on the lot.
5. The property is in the Residential R-3 Zoning District. The proposed attached accessory dwelling structure meets all the required setbacks, building height and yard requirements for a primary dwelling.
6. The proposed accessory dwelling is proposed to be located on the second floor of an existing attached garage. Access will be via an internal staircase and elevator inside the three-car garage. There is a secondary access via a back door and stairway from the accessory dwelling unit. This is located at the east side of the building.
7. The appearance of the accessory dwelling will be in keeping with the appearance of the primary dwelling.
8. The Foundation Location Plan 63 Scituate Avenue, Scituate, MA dated 4/10/14 revised 10/28/14 by Morse Engineering Company, Inc. shows the location of the garage. A photograph taken in February 2021 shows a bituminous concrete driveway for the existing dwelling and a 3-car garage along with a paved back-up spot/basketball area. This appears adequate to provide two parking spaces for the primary dwelling and two spaces for the accessory dwelling. Ample parking appears to be provided.
9. The owners have submitted a signed, notarized statement that they will be occupying one of the units at 63 Scituate Ave.
10. The accessory dwelling will be serviced by Town water and Sewer. DPW requirements for water connections and sewer connections will be met.
11. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

A motion was duly made and seconded to approve the Special Permit for an accessory dwelling at 63 Scituate Avenue with the following conditions in addition to the 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, any construction shall substantially conform to architectural plans by OCO Architecture for 63 Scituate Avenue Scituate, MA Residential Addition and Renovation dated 1/13/21 with revisions through 2/5/2021 consisting of a cover sheet A000, Notes and Legend A001, Overall Floor Plan A100, First Floor/Garage Plan A101, Second Floor Plan A102, Roof Plan A103, Front Elevation A201, Rear Elevation A202, Side Elevation A203, Section thru New Dormer A301, Enlarged Plans A401, Enlarged Kitchen Plan A402; Foundation Location Plan 63 Scituate Avenue Scituate, MA dated 4/10/14 revised 10-28-14 prepared by Morse Engineering Co., Inc.
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 by the Planning Board.
4. Upon occupancy of the accessory dwelling, the applicant shall provide a notarized affidavit that he/she is living in one of the dwelling units. A yearly certification that the owner occupies one of the dwelling units must be provided by March 1 yearly.
5. All requirements of the Board of Health, Building Department, Zoning Board of Appeals, Department of Public Works, Fire Department and other Town agencies must be met prior to occupancy of the accessory dwelling.
6. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
7. Water connection must meet all requirements of the DPW Water Division for the accessory dwelling. The DPW recommends a separate water service for the accessory dwelling.
8. The sewer connection must meet all requirements of the DPW Sewer Division for the accessory dwelling including an \$8,000 sewer connection fee.
9. Any lighting installed shall be down lighting to not shed light on abutting properties.
10. 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 state and federal holidays. Construction includes idling of vehicles, delivery of materials to the site and all other construction activities.
11. Runoff from the proposed accessory dwelling shall not be increased from the property.
12. Erosion and sedimentation control devices shall be installed to prevent any erosion or sedimentation from leaving the site during construction. Silt sock shall be used as necessary.

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 two dwelling units, the primary 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.

- C. The owner 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 house. 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 either the primary or accessory unit is owner occupied.
- G. No on-street parking by occupants of the primary or accessory dwelling shall be permitted at any time.
- H. Construction vehicles/equipment shall not idle, be parked, stored, loaded or unloaded in the street.
- I. 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.
- J. 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.
- K. 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 at 63 Scituate Avenue with the conditions noted above.

March 25, 2021

Date

SCITUATE PLANNING BOARD

[Signature]

[Signature]

Patricia A. Lombardi

[Signature]

Aria Burbine

This decision was filed with the Town Clerk on March 31, 2021
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