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TOWN OF SCITUATE

Planning Board



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**Accessory Dwelling Special Permit 16 Gannett Road
Decision: APPROVED with Conditions**

Owner: Jason and Melanie Lelio
Applicant: Jason and Melanie Lelio
Date: October 27, 2020
Location: 16 Gannett Road
Assessor's Map: # 08-04-01

Plans: Plot Plan for 16 Gannett Road dated October 8, 2019 by C & G Survey Company of Scituate, MA; First Floor (existing Detached Building), Second Floor (existing Detached Building), Existing Main House First Floor Plan by Rockwood Design Inc. dated 10/3/2019, Existing Main House Second Floor by Rockwood Design, Inc. dated 10/3/2019 and Building Photographs dated 10/7/2019 showing Rear, Left, Front and Right.

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

Background: The property is located in the Residential R-3 Zoning District on a lot of approximately 12,379 sq. ft. according to Town of Scituate Assessor's records and the Certification Plot Plan submitted with the application. The proposed detached accessory dwelling of 928 sq. ft. is in an existing two car detached garage and is proposed to have a two 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 928 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 928

sq. ft. which is less than 750 sq. ft. as allowed in the zoning bylaw. The applicants have signed a notarized statement that he will occupy one of the units at 16 Gannett Road.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on September 22, 2020. 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 and closed on October 22, 2020 when the Planning Board approved the Special Permit with conditions including the Planning Board standard conditions.

Hearing Summary: The public hearing was opened on October 22, 2020 with the applicant Jason Lelio present. Mr. Lelio indicated he would like to permit an accessory dwelling in an existing detached garage at 16 Gannett Road. He indicated the accessory dwelling is two stories and was existing when he bought the property in August 2019 and he wants to legally allow for its use. He indicated he thought the approvals were there when he bought the property as it had a building permit. He indicated the detached structure was serviced by town water and town sewer and he is working with those departments to pay the connection fees and the accessory dwelling will have its own water meter. He said there will be no new construction except to add a stove to the kitchen. Mr. Lelio said he has egress from the garage door as well as two sliding doors and the Building Commissioner has indicated this is adequate. He indicated there were two lights above the garage and on the left side of the structure. Mr. Lelio said there is parking for two cars in the garage and six to eight tandem car parking to the side of the garage. He said there is a small unfinished attic space.

Public Comment: Thomas W. and Inez W. Moore of 10 Gannett Road submitted a written comment in support of the Lelio's request for an accessory dwelling special permit. Karen Maguire and Steven Nothern of 20 Collier Avenue submitted a letter in opposition to the application. William Branton of the Sewer Division submitted written comments indicating that sewer connections for accessory dwellings are assessed a one half privilege fee for connection to town sewer and the amount would be \$8,000, the building appears to have a sewer line and the applicant needs to identify where the sewer line is on the property or provide a new sewer line in accordance with rules and regulations and when possible separate building should have separate sewer lines to the town system and the owner is responsible for an back up on private property. Sean Anderson of the Water Division provided written comments indicating the accessory dwelling is required to have its own water service line and meter with the owner responsible for the service connection fee installation and having it inspected by the water department.

During the hearing, Ms. Karen Maguire of 20 Collier Ave. said she did not remember receiving any notification of the building being constructed as it was an empty lot previously and the construction was done in the winter time when many people are away. Ms. Joseph offered that a building permit does not require abutter notification and there are instances in the town where detached garages with upstairs are being built to later turn into accessory dwellings. Ms. Maguire said the building is as close as it can be to the lot lines. Ms. Joseph offered that the house built in 1910 was pre-existing non-conforming and had a special permit from the Zoning Board of Appeals to increase the size of the house on the 12,379 sq. ft. lot. Ms. Maguire inquired how much of the house was expanded and was told it is not the subject of the hearing. Mr.

Michael Snyder commented that it seemed fishy that some of the building department documents pertaining to the garage were not obtainable as indicated by both Ms. Joseph and Mr. Lelio. Ms. Burbine said that would need to be taken up with the Building Department. The Board opined as it is unfortunate that the accessory dwelling did not go through the permitting process prior to construction.

Findings of fact: A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 16 Gannett Road:

1. On September 22, 2020, Jason and Melanie Lelio applied for a special permit for a detached accessory dwelling on the property at 16 Gannett Road.
2. According to the Town of Scituate Assessor's records and the deed, the property at 16 Gannett Road is owned by Jason and Melanie Lelio.
3. Based on a floor plan submitted by the applicant, the floor area of the proposed accessory dwelling will be approximately 928 gross sq. ft. This is 34% of the total square footage of the primary dwelling, which is 2,744 sq. ft. according to the Applicant. 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 detached 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 in the exiting 2-story detached garage. Access will be via a main door and patio doors on the ground level.
7. The appearance of the accessory dwelling will be in keeping with the appearance of the primary dwelling.
8. The Plot Plan for 16 Gannett Road in Scituate, MA shows two driveways on either side of the primary dwelling, a two car garage and a gravel area to the east of the proposed accessory dwelling able to accommodate two cars. This appears adequate to provide two parking spaces for the primary dwelling and two spaces for the accessory dwelling.
9. The owners have submitted a signed, notarized statement that they will be occupying one of the units at 16 Gannett Road.
10. The accessory dwelling will be serviced by Town water and Sewer. DPW requirements for water 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 16 Gannett Road 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 the undated floor plans submitted with the application and attached hereto.
2. The number of bedrooms in the accessory dwelling is limited to two 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 they are 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. No parking is permitted in the driveway easement area.
8. Water connection and sewer connections must meet all requirements of the DPW Water Division/DPW Sewer Division for the accessory dwelling.
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/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 16 Gannett Road with the conditions noted above.

October 22, 2020

Date

SCITUATE PLANNING BOARD

Lena Buehler
[Signature]
Patricia Lambert
[Signature]
[Signature]

This decision was filed with the Town Clerk on November 3, 2020
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