

TOWN OF SCITUATE

Planning Board



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Scituate, Massachusetts 02066
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Accessory Dwelling Special Permit 239 Tilden Road
Decision: APPROVED with Conditions

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2022 MAY 16 AM 10:49

TOWN OF SCITUATE
TOWN CLERK

Owner: Patrick and Colleen Hackett
Applicant: Patrick and Colleen Hackett
Date: May 16, 2022
Location: 239 Tilden Road
Assessor's Map: #56-1-7-034-29-5

Plans: Addition plans submitted with the application by JE Fitzgerald Housesmith, Inc. consisting of Addition Plans – Front Elevation Page 1 dated 4/18/2022; Rear Elevation Page 2 dated 4/18/2022; Side Elevation Page 3 dated 4/18/2022; Overall Floor Plan Page 4 dated 4/18/2022; Accessory Dwelling Floor Plan Page 4-A dated 4/18/2022; Foundation Plan Page 5 dated 4/18/2022; Thru Section Detail Page 6 dated 4/18/2022; Connector Deck Detail Page 7 dated 4/18/2022; Existing Floor Plan; Plot Plan for 239 Tilden Road, Scituate, MA by C & G Survey Company dated April 19, 2022.

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

Background: The property is located in the Residential R-2 Zoning District on a lot of approximately 20,000 sq. ft. according to Town of Scituate Assessor's records and the Plot Plan submitted with the application. The accessory dwelling is proposed in a single-family home as an addition on the first floor of the existing dwelling. The proposed accessory dwelling will have one bedroom and one bathroom with an open family/kitchen area. There is an entrance on the side and rear of the accessory dwelling. Based on a floor plan submitted by the applicant, the floor area of the accessory dwelling is approximately 597 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 primary dwelling is 1,344 sq. ft. The accessory dwelling at 597 sq. ft. is 44.24% of the size of the primary dwelling which is allowed as it is more than the maximum of 40% of the total floor area of the primary dwelling allowed in the zoning bylaw, but is less than 750 sq. ft. and the greater applies. The applicant has signed a notarized statement that an owner will occupy the primary dwelling at 239 Tilden Road and his father in law will occupy the accessory dwelling.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on March 24, 2022. 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 May 12, 2022 and closed on the same date when the Planning Board approved the Special Permit with conditions including the Planning Board standard conditions.

Hearing Summary: The public hearing was opened on May 12, 2022 with the applicant, Patrick Hackett and his father in law James P. McElwee, Jr. present. Mr. Hackett presented what he would like to do for the accessory dwelling. He indicated the addition will be all the same materials as the primary dwelling and any lighting would be down lighting. The Board indicated the accessory dwelling met the requirements.

Public Comment: Robert Vogel, Building Commissioner commented that he has no comments on the application and indicated there may need to be a few changes to meet building code. Mark Cloud of the Water Division has indicated that a separate water line will not be needed. There was no public comment during the public hearing.

Findings of Fact: A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 239 Tilden Road:

1. On March 24, 2022 applicant/owner Patrick and Colleen Hackett applied for a special permit for an accessory dwelling in a single-family home on the property at 239 Tilden Road.
2. According to the Town of Scituate Assessor's records and the deed, the property at 239 Tilden Road is owned by Patrick and Colleen Hackett. Both owners signed the accessory dwelling special permit application.
3. Based on a floor plan submitted with the application, the Planning Board finds the floor area of the Accessory Dwelling to be 597 sq. ft. The floor area of the primary dwelling is 1,344 sq. ft. The accessory dwelling is 44.427% of the floor area of the primary dwelling. 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 floor area 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-2 Zoning District. The proposed accessory dwelling structure meets all the required setbacks, building height and yard requirements for a primary dwelling.
6. The proposed accessory dwelling is to be located on the first floor of the single-family home. Access will be via a door at the side of the house and a slider door off the kitchen/family area to the rear of the house.
7. The appearance of the accessory dwelling will be in keeping with the appearance of the primary dwelling.
8. The Plot Plan for 239 Tilden Road, Scituate, MA by C & G Survey Company dated April 19, 2022 shows the location of the existing primary dwelling and the proposed accessory dwelling. The plan shows an existing bituminous driveway which can fit four parking spaces. 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 applicant/owner has submitted a signed, notarized statement that he will continue to occupy the primary dwelling as his residence once the accessory dwelling is complete and his father in law will occupy the accessory dwelling.
10. The accessory dwelling will be serviced by Town water and private septic. The Water Department has commented that a separate water line is not needed. A four-bedroom septic system was installed in 2019.
11. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

I move to approve the Special Permit for an accessory dwelling at 239 Tilden 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 revised plans submitted with the application by JE Fitzgerald Housesmith, Inc. consisting of Addition Plans – Front Elevation Page 1 dated 4/18/2022; Rear Elevation Page 2 dated 4/18/2022; Side Elevation Page 3 dated 4/18/2022; Overall Floor Plan Page 4 dated 4/18/2022; Accessory Dwelling Floor Plan Page 4-A dated 4/18/2022; Foundation Plan Page 5 dated 4/18/2022; Thru Section Detail Page 6 dated 4/18/2022; Connector Deck Detail Page 7 dated 4/18/2022; Existing Floor Plan; Plot Plan for 239 Tilden Road, Scituate, MA by C & G Survey Company dated April 19, 2022.
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 an owner 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 is not requiring a separate water service for the accessory dwelling.
8. Any lighting installed shall be down lighting to not shed light on abutting properties.
9. 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. No trucks shall park in the street.
10. Runoff from the proposed accessory dwelling shall not be increased from the property.
11. 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 239 Tilden Road with the conditions noted above.

May 12, 2022

Date

SCITUATE PLANNING BOARD

Anna Burbine
Spencer P. Pultine
[Signature]
[Signature]
Patricia Lombert

This decision was filed with the Town Clerk on May 16, 2022
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