

TOWN OF SCITUATE

Planning Board



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Scituate, Massachusetts 02066
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Accessory Dwelling Special Permit 4 Merritt Lane Decision: APPROVED with Conditions

Owner: Carol Palmer and Bradley Tenner
Applicant: Ian Hager of I.S. Hager Building and Remodeling
Date: February 6, 2023
Location: 4 Merritt Lane

Assessor's Map: #39-20-1-B

Plans: Plans submitted with the application by HRL Architects, LLC for the Palmer Residence dated 8/2/2022 Sheet DSK-B1; Plan showing 3 levels of the house with gross floor area by Matterport, undated; Mortgage Inspection Plan by Colonial Land Surveying Company, Inc., Hanover, MA dated 5-5-14 for Lot 10 4 Merritt Lane.

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-3 Zoning District on a lot of approximately 12,000 sq. ft. according to the Assessor's Card. The accessory dwelling is proposed in a single-family home as an interior renovation of a portion of the first floor of the existing dwelling. The proposed accessory dwelling will have one bedroom and one bathroom with a kitchen, laundry area, den/office and living room. There is an entrance at the front side and rear side of the accessory dwelling. Based on a floor plan submitted by the applicant, the floor area of the accessory dwelling is approximately 790 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 3,360 sq. ft. The accessory dwelling at 790 sq. ft. is 33% of the size of the primary dwelling which is allowed as it is 750 sq. ft. or 40% of the

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total floor area of the primary dwelling, whichever is greater. One owner has signed a notarized statement that she will continue residing at the premises as her full-time residence.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on November 30, 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 January 26, 2023 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 January 26, 2023 with the applicant present. Mr. Hager indicated they would like to remodel the existing accessory dwelling and make it legal. The Board indicated the accessory dwelling met the requirements.

Public Comment: The Water Division indicated they do not require any changes to the water service for the work. The Sewer Division indicated they had no record of receiving a payment for use as an accessory dwelling. They indicated an \$8,000 fee is required. No comments were made 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 4 Merritt Lane:

1. On November 30, 2022 applicant Ian Hager of I.S. Hager Building and Remodeling applied for a special permit for an accessory dwelling in a single-family home at the property at 4 Merritt Lane on behalf of Carol Palmer and Bradley Tenner, owners.
2. According to the Town of Scituate Assessor's records and the deed, the property at 4 Merritt Lane is owned by Carol Palmer and Bradley Tenner. 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 790 sq. ft. The floor area of the primary dwelling is 2,404 sq. ft. according to Assessor's Records. The application indicates the floor area of the primary dwelling to be 3,360 sq. ft. The accessory dwelling is 33% of the floor area of the primary dwelling calculated from the application 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 contained within the existing single-family home, does not expand the footprint of the existing home, is not separately discernable from the existing home and is therefore, clearly 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 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 in a first-floor remodeling of the single-family home. Access will be via a door at the side of the house and a door into the existing home and a second outside access from the bedroom.
7. The appearance of the accessory dwelling does not materially alter the appearance of the primary dwelling since the new stairway for access will be at the side of the primary dwelling and therefore is in keeping with the appearance of the primary dwelling.
8. The Mortgage Inspection Plan Lot 10 - #4 Merritt Lane in Scituate by Colonial Land Surveying Company, Inc. dated 5-5-14 shows the location of the existing primary dwelling. The accessory dwelling is proposed within the primary dwelling. No parking or driveways are shown on the plan. A Near Maps Image on April 12, 2022 shows a driveway with parking for four cars at the north end of the house. This is adequate to provide two parking spaces for the primary dwelling and two spaces for the accessory dwelling. Ample parking will be provided.
9. An owner has submitted a signed, notarized statement that she will continue to reside on the property as her full-time residence once the accessory dwelling is renovated.
10. The accessory dwelling will be serviced by Town water and sewer.
11. The application **meets** the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

A motion was made and duly seconded **to approve** the Special Permit for an accessory dwelling at 4 Merritt Lane 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 and on the condition that all representations made by the applicant/owners as set forth in the Findings of Fact are implemented:

1. Except for any changes necessary to meet these conditions, any construction shall substantially conform to plans submitted with the application by HRL Architects, LLC dated 8/12/2022 consisting of one sheet, DSK-B1 Proposed First Floor Plan; Mortgage Inspection Plan for Lot 10 - 4 Merritt Lane in Scituate, MA by Colonial Land Surveying Company, Inc. dated 5-5-14.
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 to the Planning Office 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 and sewer connection must meet all requirements of the DPW 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.
10. 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.
11. The appearance of the accessory dwelling will be in keeping with the primary dwelling unless otherwise required by the Massachusetts Building Code and new exterior stairs needed to provide primary or secondary means of egress for the accessory dwelling shall be located on the side of the building.
12. At least two private off-street parking spaces shall be available for use by the occupants of the accessory dwelling in addition to those parking spaces required for the primary dwelling.

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 4 Merritt Lane with the conditions noted above.

January 26, 2023

Date

SCITUATE PLANNING BOARD

Patricia A. Leonard

Edmund R. Fulbright

Ann Burbank

~~By: [Signature]~~

[Signature]

This decision was filed with the Town Clerk on February 6, 2023
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