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## TOWN OF SCITUATE

*Planning Board*



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### Accessory Dwelling Special Permit – 25 Mann Hill Road Decision: APPROVED with Conditions

Owner: Mark D'Onofrio  
Applicant: Mark D'Onofrio  
Date: May 21, 2019  
Location: 25 Mann Hill Road  
Assessor's Map: # 27-6-38

Plans: Site Plan entitled Site Plan Proposed Accessory Dwelling 25 Mann Hill Road, by Morse Engineering Co., Inc. and stamped by Gregory J. Morse, P.E. dated 3/20/19 with revisions through 5/3/19; Architectural Plans by Mark P. Coughlin, AIA dated 3-2-19 consisting of 1 sheet including Proposed Floor Plan – 1,038 SF and Proposed Carriage House – Front Elevation, A.1.

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-2 Zoning District on a lot of approximately 58,952 sq. ft. (1.35 acres). The proposed detached accessory dwelling is approximately 1,038 sq. ft. and located to the rear of the primary dwelling north of the existing barn. The accessory dwelling is a two bedroom unit on one level with a three season attached porch. Based on a floor plan submitted by the applicant, the interior floor space of the accessory dwelling is approximately 1,038 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 34% of the total square footage of the primary dwelling (3,051 sq. ft.) which is less than 40% allowed in the bylaw. The applicant has signed a notarized statement that he will occupy one of the dwelling units at 25 Mann Hill Road upon completion of the accessory dwelling.

**Procedural Summary:** This request for a Special Permit was filed with the Town Clerk and the Planning Board on April 1, 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 April 25, 2019 and continued to May 9, 2019 when the Planning Board approved the Special Permit with conditions including the Planning Board standard conditions.

**Hearing Summary:** The public hearing was opened on April 25, 2019 with Gregory Morse, P.E. present representing the applicant. Mr. Morse indicated that the proposed detached accessory dwelling is approximately 1,038 sq. ft. for one floor living for the applicant's parents. He indicated the lot is 1.35 acres and is not located in any flood zone or overlay district. He said the site has an existing single family home which was constructed in the late 1800's with a barn and office pre-dating zoning. He said the design of the accessory dwelling will make it look like a carriage house. Mr. Morse said the proposed accessory dwelling complies with all setbacks and will include a new water system and an upgrade of the existing septic system. Mr. Morse indicated the septic system will be upgraded for six bedrooms – two in the accessory dwelling and four in the primary dwelling. He said the applicant is allowed to repair the septic system for up to seven bedrooms as that is the number that exist in the house now. He indicated there would be a deed restriction limiting the bedrooms in the primary dwelling to four. Mr. Morse indicated that the project does not trigger a stormwater permit; however, in response to the Town Planner's concerns of high groundwater roof gutters will be piped to underground infiltration chambers. He said the location of the accessory dwelling is near the location of a removed pool and patio. As the new septic system was not approved by the Board of Health nor shown on the plan, the Board asked for a continuance of the public hearing until May 9, 2019 to provide time for other permitting. The Planning Board approved the accessory dwelling special permit with conditions at that time.

**Public Comment:** The Public Health Department initially indicated an application had not been filed with their department; however after one was filed they indicated the septic review was complete with no issues. They indicated two separate deed restrictions would be required for the site – one two bedroom deed restriction for the accessory dwelling and one four bedroom deed restriction for the primary dwelling. The O'Haras of 11 Aquinnah Path provided an email in support of the project. Emily Nicholson of 7 Aquinnah Path expressed some concerns via email size and wanted to make sure it meets Title V. Via email, Ashley and Jason Schumaker as abutters expressed concern with the septic system size and wanted assurance that runoff is handled.

At the public hearing session on 4/25/19, Emily Nicholson expressed concern of how the bedroom count is regulated by the septic system and how is it a repair. Mr. Morse indicated there would be a deed restriction for the primary dwelling for four bedrooms. Jason Schumacher of 3 Aquinnah Path asked why the septic system is not for nine bedrooms as there are seven in the primary dwelling. It was indicated that the applicant does not intend to occupy the house as a seven bedrooms house and will have a deed restriction to four bedrooms. Mr. Schumaker asked if the barn had plumbing which Mr. Morse said it did not. He also expressed concern of runoff coming onto his property from the sump pump. Mr. Bornstein indicated he hoped the mature trees would not be impacted by the septic system as he does not want to see runoff exacerbated.



At the 5/9/19 hearing session, Emily Nicholson again questioned the septic system and who would provide enforcement in the future if the system failed as there were too many bedrooms. The Board indicated there would be separate deed restrictions for the primary and accessory dwelling and enforcement would be from the Board of Health. She expressed concern on the sump pump water from the existing primary dwelling. Mr. Morse indicated they would try to redirect the sump pump water closer to the front of the house. Jason Schumaker expressed the same concerns along with the high groundwater table. The town Planner indicated the Public Health Department is requiring a separate deed restriction for the primary dwelling of four bedrooms and the accessory dwelling with two bedrooms. Ms. Nicholson asked about the wall around the septic system. Mr. Morse said there would be a break out barrier.

**Findings of fact:** A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 25 Mann Hill Road:

1. On April 1, 2019, Mark A. D'Onofrio applied for a special permit for a detached accessory dwelling on the property at 25 Mann Hill Road.
2. Based on a floor plan submitted by the applicant, the floor area of the proposed accessory dwelling will be approximately 1,038 sq. ft. This is 34% of the total square footage of the primary building which is 3,051 sq. ft. according to 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 square footage of the primary dwelling, whichever is greater. The accessory dwelling is subordinate to the existing single family home.
3. The Accessory dwelling unit will be a complete separate housekeeping unit and there will be only one accessory dwelling on the lot.
4. The proposed detached accessory dwelling structure meets all the required setbacks, building height and yard requirements for a primary dwelling.
5. The proposed accessory dwelling is located at the rear of the primary dwelling and north of the existing barn. Access will be via a walkway leading from the existing driveway to the front door.
6. The appearance of the accessory dwelling is similar in the appearance to the primary dwelling.
7. The Proposed Accessory Dwelling Site Plan for the property shows a bituminous concrete driveway with two parking spaces adjacent to the proposed accessory dwelling. This appears adequate to provide two parking spaces for the accessory dwelling. Two parking spaces for the primary dwelling are shown to the south of the accessory dwelling. Ample parking appears to be provided.
8. The owner has submitted a signed, notarized statement that he will live on the property upon completion of the accessory dwelling unit.
9. The accessory dwelling will be serviced by an upgraded septic system onsite which will be deed restricted for the 2 bedrooms and is to comply with all Board of Health conditions and Title V standards. There will be a separate 4 bedroom deed restriction for the primary dwelling. There will be four bedrooms in the primary dwelling and two in the accessory

dwelling. A connection to Town water will be provided and it will comply with the Town requirements for a water connection.

10. Stormwater runoff from the roof area of the accessory dwelling will be directed to a subsurface roof infiltration system while stormwater runoff from the driveway and primary dwelling will flow overland as it presently does.
11. 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 at 25 Mann Hill Road with the following conditions and 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 Site Plan entitled Site Plan Proposed Accessory Dwelling 25 Mann Hill Road, by Morse Engineering Co., Inc. and stamped by Gregory J. Morse, P.E. dated 3/20/19 with revisions through 5/3/19; Architectural Plans by Mark P. Coughlin, AIA dated 3-2-19 consisting of 1 sheet including Proposed Floor Plan – 1,038 SF and Proposed Carriage House – Front Elevation, A.1.
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. The number of bedrooms in primary house is limited to four. A copy of the deed restrictions shall be provided to the Planning Office prior to occupancy of the accessory dwelling.
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 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 must be met.
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.
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/federal holidays. Construction includes idling of vehicles, delivery of materials to the site and all other construction activities.



10. The limit of work is to be staked in the field and verified that disturbance is less than 15,000 sq. ft. If a stormwater permit is needed with verification from the stormwater authority, the owner shall apply for one.
11. Runoff from the proposed primary dwelling or accessory dwelling shall not be increased from the property.
12. 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 60 Marion Road with the conditions noted above.

25 Mann Hill Road

May 9, 2019

Date

SCITUATE PLANNING BOARD

~~Patricia A. Lomant~~  
Patricia A. Lomant  
~~Anna Burrows~~  
~~Ed. P. Pulikant~~  
Rebecca

This decision was filed with the Town Clerk on May 21, 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