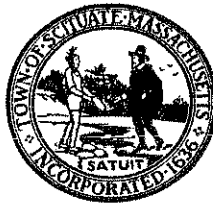


TOWN OF SCITUATE



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Planning Board

Accessory Dwelling Special Permit – 345 Hatherly Road Decision: APPROVED with Conditions

Owner: Michael E. and Kristen Ahern
Applicant: Mike Ahern General Contracting
Date: August 25, 2014
Location: 345 Hatherly Road
Assessor's Map # 28-23-1

Plans: Site Plan at 345 Hatherly Road by Spath Engineering Inc. dated 10/28/2013 for Michael Ahern; As Built/Existing Conditions for 345 Hatherly Rd Scituate MA 02066 by JAKKA Architecture Sheets 3 -5 1st, 2nd and 3rd floor plans dated May 12, 2014; Proposed Home Plan for 345 Hatherly Road, Scituate, MA submitted with application, with picture of proposed accessory dwelling and attached garage, Style: Craftsman, Northwest; Rear Elevation of proposed accessory dwelling; Main Level floor plan of accessory dwelling; 2nd level floor plan of accessory dwelling.

Members Hearing Special Permit Application: William Limbacher, Chairman; Stephen Pritchard, Richard Taylor, Robert Vogel and Robert Greene.

Background: The property is located in the Residential R-2 Zoning District. The lot area of the property is 53,579 sq. ft. The existing dwelling located on the property known as 345 Hatherly Road has 4,368 sq. ft. of floor area according to the application submitted. The proposed accessory dwelling will be a three bedroom unit located in a detached structure behind the existing dwelling. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be 1,520 sq. ft. It is proposed to be authorized as a second legal living unit on the same lot through approval of an accessory dwelling special permit by the Planning Board. The floor area

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of the accessory dwelling will be 34.8% of the living area of the primary dwelling which is less than the 40% maximum allowed by the bylaw. The applicant has signed an affidavit stating that he will occupy the smaller accessory dwelling unit and lease the larger unit on the premises.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on May 13, 2014. 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 June 26, 2014 and was continued until July 24, 2014 and August 14, 2014 when the hearing was closed and the Planning Board approved the Special Permit with conditions. Stephen Pritchard was not present on June 26, 2014, but completed a Mullin Rule Certification for the one hearing session missed on July 16, 2014. The certification was filed with the Town Clerk on July 18, 2014.

Hearing Summary: Michael and Kristen Ahern were present on June 26, 2014 for the hearing. Mr. Ahern indicated he submitted plans to erect a detached accessory dwelling which is less than 40% of the area of the main dwelling and fit all the guidelines in the bylaw. He said the property could support two units as it has over double the land area required for a single family home, but he wanted a detached unit instead of the two units being connected so he applied for an accessory dwelling special permit. Chairman Limbacher indicated that since only four members were present a unanimous vote would be required for the special permit. Mr. Ahern indicated he was aware of the voting requirement and wanted to proceed.

Ms. Harbottle indicated the property was for sale and if approved, this would be the largest accessory dwelling in Town. Mr. Ahern said that if he obtains the special permit, he would not sell the property but would live in the smaller accessory dwelling and lease the main house. He indicated he was looking to downsize and he does not want to keep renting the large house out without being present on the property as he does all the maintenance. Several Board members were concerned about the size of the detached accessory dwelling with three bedrooms, the space above the garage labelled as "bonus room" and whether the application met the subordinate portion of the bylaw. Three of the Board members agreed it technically met the bylaw. Chairman Limbacher indicated that the purpose of the bylaw sections A and B was not met in his mind. Mr. Ahern asked for a continuance so that all Board members would be present.

Mr. Ahern was present on July 24, 2014 for the continuation of the hearing. Chairman Limbacher indicated that Stephen Pritchard had completed a Mullin Rule Certification which was filed with the Town Clerk. Mr. Ahern said he wanted to erect a detached accessory dwelling in accordance with all the conditions of the bylaw. He indicated his proposal was in line with others previously approved and his lot has more land area than others approved. He indicated his lot coverage is less than many approved and the bylaw as written was approved by the Attorney General. The Board discussed the size of the accessory dwelling and if it was subordinate. No clear definition of subordinate was provided. The Board then considered where the other houses in the neighborhood were and the relationship of the proposed accessory dwelling being set back from the road and behind the main house making it less visible. They also discussed that the "bonus room" would need a condition that it would not become habitable space. Mr. Ahern said it would be storage and he would put his mechanicals there as there would be no basement and offered a deed restriction

prohibiting the “bonus room” from ever becoming habitable space. The hearing was continued for the Board to work on findings and conditions.

On August 14, 2014, the applicant was not present due to a death in the family. He indicated in a phone conversation to the Town Planner that the revised draft conditions were acceptable to him. The Board reviewed the Findings of Fact and Conditions and closed the hearing after a unanimous vote for approval.

Public Comment: The Planning Board received a comment letter from the Director of Public Health who indicated that the Board of Health has no concerns about the project.

Findings of fact: A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 345 Hatherly Road:

1. According to Town of Scituate Assessor’s records, the property at 345 Hatherly Road is owned by Michael E. and Kristen Ahern. The property is located in the Residential R-2 zoning district on a lot of 53,579 sq. ft. according to the stamped surveyed site plan.
2. On May 13, 2014, Mike Ahern General Contracting applied for a special permit for a detached accessory dwelling on property at 345 Hatherly Road.
3. According to the plan and Assessor’s Records, the floor area of the primary dwelling is 4,368 sq. ft. The floor area of the accessory dwelling as shown on the plan is approximately 1,520 sq. ft. The floor area of the accessory dwelling will be 34.8% of the living area of the primary dwelling which is less than the 40% maximum in the bylaw. It meets the size requirements of 530.2F for accessory dwellings.
4. The detached accessory dwelling will blend with the architectural style and be of similar materials to the existing primary dwelling.
5. The accessory dwelling will be located behind the existing primary dwelling with a 230’ front setback. The side setbacks will be approximately 32’ and 34’, well in excess of the 8’ setbacks required in this zoning district. The applicant provided information showing the lot coverage of primary and accessory dwellings will be approximately 5% of the entire lot. The location of the accessory dwelling behind and to the side of the existing home, its size and location on the lot, smaller footprint and mass, and fewer bedrooms combine to make the accessory dwelling subordinate to the primary dwelling.
6. The site plan and architectural drawings show the detached accessory dwelling to have a 2 car garage. Outside the garage the detached accessory dwelling has 2 parking spaces in the driveway. The primary dwelling has a separate garage and driveway for the house. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
7. The property is for sale. The applicant has submitted a signed, notarized statement that he

will live on the property in the smaller dwelling unit (accessory dwelling) and rent out the larger one. The special permit will be recorded.

8. The Board of Health has indicated they have no concerns about the project. The site is on town sewer.
 9. One accessory dwelling unit is contained on the lot in a detached structure. It will be a separate housekeeping unit.
 10. The detached accessory dwelling complies with all required setback, building height and yard requirements for the primary structure according to the information provided.
 11. No exterior stairs are shown on the plan.
 12. The application meets the standards of Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.
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Decision: A motion was duly made and seconded to approve the Accessory Dwelling Special Permit for 345 Hatherly Road with the following conditions:

1. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department and other town agencies.
2. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled:
 - a. Site Plan at 345 Hatherly Road Scituate, MA prepared for Michael Ahern by Spath Engineering Inc., dated 10/28/13.
 - b. As Built/Existing Conditions 345 Hatherly Road Scituate, MA by JAKKA Architecture dated May 12, 2014 sheets 3-5, First, Second and Third Floor Plans.
 - c. Proposed Home Plan for 345 Hatherly Road, Scituate, MA including a picture with specifications, elevation and main level and second level footprint.
3. The property at 345 Hatherly Road shall contain a maximum of two dwelling units, the existing dwelling and the detached accessory dwelling as proposed. The footprint, number of bedrooms and/or square footage of the accessory dwelling shall not be increased without prior approval of the Planning Board. The number of bedrooms in the detached accessory dwelling is limited to 3 in the location and size indicated on the 2nd level plan submitted with the application and attached herein. The “bonus room” cannot ever become habitable space. All plans shall replace the label “bonus room” with “Storage Only – not to be used as habitable space.” A deed restriction shall be provided and recorded by the applicant noting the bedroom and “bonus room – storage only” conditions before a Certificate of Occupancy is granted. A full basement will not be provided.

4. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit. Any prospective buyers of the property shall be advised of this condition.
5. The Planning Board will require an on-site inspection for conformance to the approved plans and these conditions prior to a Certificate of Occupancy being issued for the accessory dwelling.
6. No on-street parking shall be permitted at any time. Construction vehicles/equipment shall not be parked, stored, loaded or unloaded in the street.
7. Pavement is limited to that shown on the site plan by Spath Engineering Inc. dated 10/28/13. The additional driveway for the accessory dwelling will be a pervious natural material and not bituminous concrete.
8. 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.
9. 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.
10. Future purchasers shall be notified at the signing of purchase and sale of the requirements of Zoning Bylaw Section 530, including the requirement that they live on the site and this special permit and its conditions. The Planning Board shall be provided with an affidavit from the owners stating that they will live on the property within one week of the closing.
11. The Planning Board reserves the right to review compliance with this special permit at any time. At the request of the Planning Board, an affidavit shall be provided that either the primary or accessory unit is owner occupied.
12. At each transfer of ownership of the property, a new affidavit that the owner resides on the property shall be provided to the Planning Board.
13. This Special Permit shall terminate if the use is not in accordance with this decision and its conditions.

Project: 345 Hatherly Road
Permit: Accessory Dwelling Special Permit

Based on the Findings of Fact, the members of the Planning Board hearing this application voted unanimously to approve the 345 Hatherly Rd special permit with the conditions noted above. Accessory Dwelling

SCITUATE PLANNING BOARD

Septer R. Fitchard

William Lumbacher

Robert B. Vogel

Robert J. Burn

Richard W. Taylor

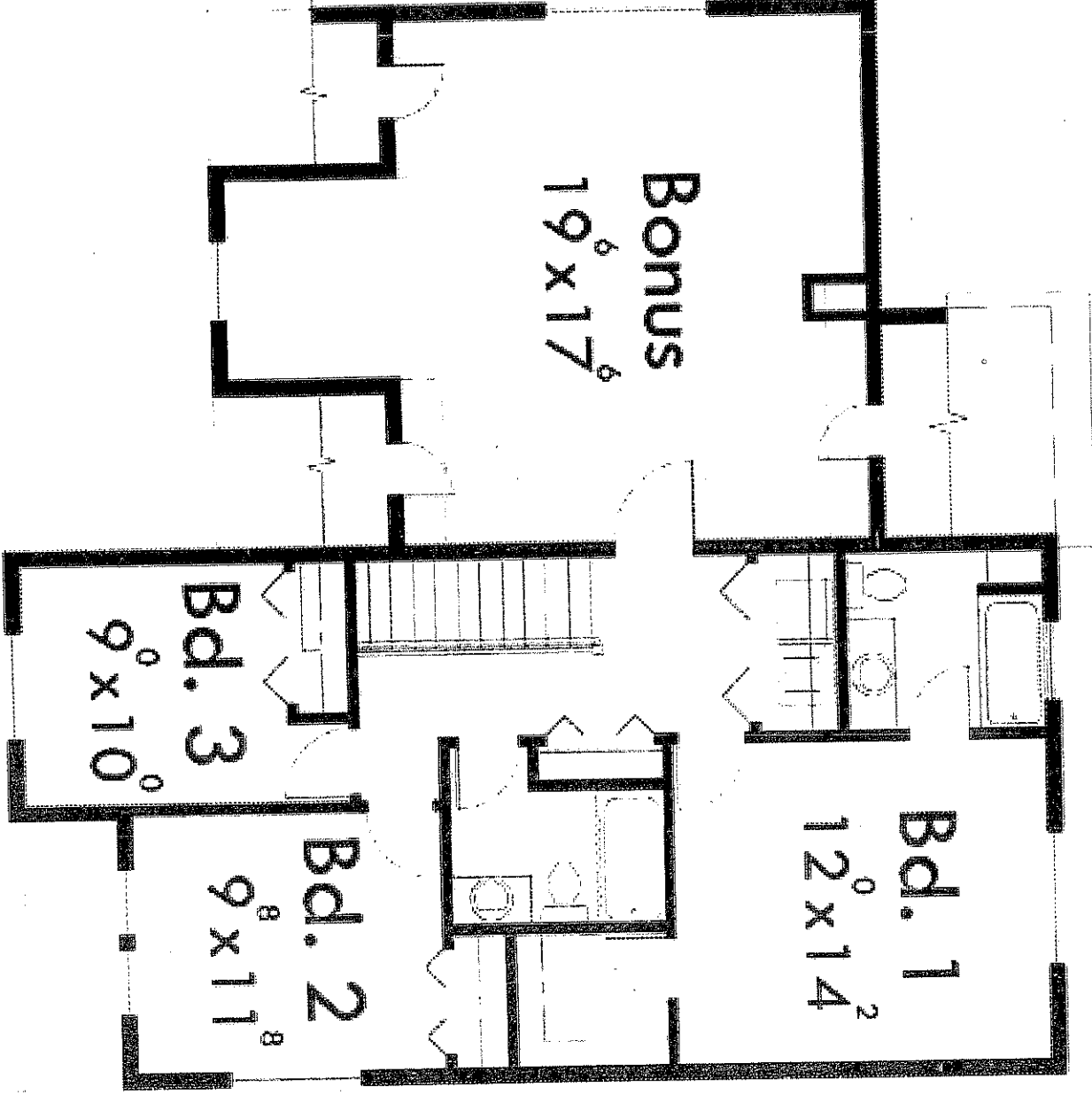
This decision was filed with the Town Clerk on August 25, 2014
date

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 plan.

2nd Level



Bonus
19' x 17'

Bd. 1
12' x 14'

Bd. 2
9' x 11'

Bd. 3
9' x 10'