

TOWN OF SCITUATE

Planning Board



600 Chief Justice Cushing Hwy
Scituate, Massachusetts 02066
Phone: 781-545-8730
FAX: 781-545-8704

**Accessory Dwelling Special Permit 22 Beal Place
Decision: APPROVED with Conditions**

Owner: Anne and Robert Breen
Applicant: Robert and Anne Breen
Date: January 29, 2024
Location: 95 Elm Street
Assessor's Map: #44-2-17

Plans: plans submitted with the application by 209 Design dated November 13, 2023 revised January 29, 2024 consisting of 1 sheet A6 First Floor Plan - ADU; Plan to Accompany ADU Filing, 95 Elm Street, (Assessor's Parcel:44-2-17), Scituate, MA prepared for Robert and Anne Breen dated November 30, 2023 by Morse Engineering Co., Inc.

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

Background: The property is located in the Residential R-2 Zoning District on a lot of approximately 20,001 sq. ft. according to the site plan. The accessory dwelling is proposed in a new single-family dwelling with access off of a common driveway. The proposed accessory dwelling will have a bedroom, bathroom, kitchen and living area. There is an entrance to the accessory dwelling through the proposed garage and a door to the outside from the accessory

RECEIVED
2024 JAN 29 PM 2:24
TOWN OF SCITUATE
TOWN CLERK

dwelling on the east side of the accessory dwelling. Based on a floor plan submitted by the applicant, the floor area of the accessory dwelling is approximately 624 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 1,934 sq. ft. according to the application. The accessory dwelling is 32.26% of the size of the primary dwelling which is allowed as it is 750 sq. ft. or 40% of the total floor area of the primary dwelling, whichever is greater. The owners have signed a notarized statement that they will reside at the premises upon completion of the project.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on December 4, 2023. 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 11, 2024 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 11, 2024 with the applicant's representative Gregory Morse present along with the builder Kerri Johnson and owners Anne and Robert Breen and their son. Mr. Morse presented that the owners would like an' accessory dwelling off the side of a new single-family home they would like to build for themselves and their son. He said the lot has received approval for a common driveway and has a Stormwater Permit. He indicated the Board of Health has approved the septic system. Mr. Morse said the lot fully complies with zoning and the accessory dwelling criteria have been met. The accessory dwelling has a side entrance. He indicated there are five parking spaces and town water and private septic. The floor area of the accessory dwelling meets the bylaw at 624 sq. ft. and it is also under 40% of the primary dwelling size. The Town Planner recommended approval with the numbers in the draft decision which vary slightly from the plans. The Board determined the accessory dwelling meets the bylaw requirements when a revised plan is submitted.

Public Comment: Eric Langlan of the Water Division indicated that the whole structure is new construction so a new water service is needed according to department specifications. The water service plan and installation must be inspected and approved by the department. Connection and meter fees required. A separate water service is not required as the accessory dwelling is attached. William Branton of the Sewer Division indicated that there is no Town sewer available at 95 Elm Street.

Findings of Fact: A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 95 Elm Street:

1. On December 4, 2023, applicants Anne and Robert Breen applied for a special permit for an accessory dwelling in a new dwelling at the property at 95 Elm Street.
2. According to the Town of Scituate Assessor's records and the deed, the property at 95 Elm Street is owned by Robert and Anne Breen.
3. Based on a floor plan submitted with the application, the Planning Board finds the floor area of the Accessory Dwelling to be 624 sq. ft. The floor area of the primary dwelling is 1,934 sq. ft. according to the application. The accessory dwelling is 32.26% 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 and partially in the Water Resource Protection 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 the rear section of the proposed new home. Access will be via doors on the east side of the house and through the garage.
7. The appearance of the accessory dwelling will be in keeping with the appearance of the primary dwelling.
8. The Site Plan for 95 Elm Street, Assessor's Parcel 44-2-17, Scituate, MA by Morse Engineering Co., Inc. dated November 30, 2023 shows the location of the existing primary dwelling and the proposed accessory dwelling inside the new home. The plan shows a paved driveway and three car garage which appears capable of supporting two cars for the primary dwelling and two cars for the accessory dwelling. Ample parking appears to be provided.
9. The applicant/owner has submitted a signed, notarized statement that she will occupy one of the dwellings upon completion of the project.
10. The accessory dwelling will be serviced by Town water and a private septic system approved by the Board of Health. The Water Department has commented that since the whole structure is new construction, a new water service is needed according to department specifications. Water service plan and installation must be approved by the water department. Connection and meter fees required. A separate water service is not required for the accessory dwelling.
11. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

The Special Permit for an accessory dwelling at 95 Elm Street is approved 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 plans submitted with the application by 209 Design dated November 13, 2023 revised January 29, 2024 consisting of 1 sheet including First Floor Plan – ADU Sheet A6 for Breen Residence, 93 (Lot 5) Elm Street, Scituate, MA; Plan to Accompany ADU Filing, 95 Elm Street (Assessor's Parcel: 44-2-17), Scituate, MA prepared for Robert and Anne Breen dated 11/30/2023 by Morse Engineering Co., Inc.
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 Water Department has commented that since the whole structure is new construction, a new water service is needed according to department specifications. Water service plan and installation must be approved by the water department. Connection and meter fees required. A separate water service is not required 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. Runoff from the proposed accessory dwelling shall not be increased from the property. If there is an increase in impervious area over 25%, then a Stormwater Permit will be required.
11. Erosion and sedimentation control devices shall be installed to prevent any erosion or sedimentation from leaving the site during construction. Silt sock or silt fence shall be used as necessary and extended around the limit of work so disturbance beyond what is shown on the plan is not allowed.
12. 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 or rear of the building.
13. 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 95 Elm Street with the conditions noted above.

January 11, 2024

Date

SCITUATE PLANNING BOARD

Patricia J. Jones
R. Deane J. Jones
Ana Bullock
[Signature]

This decision was filed with the Town Clerk on January 29, 2024
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

ACCESSORY DWELLING CALCULATION

1. FLOOR AREA OF PROPOSED ACCESSORY DWELLING: (GROSS S.F.) 2,696 S.F. (NET S.F.) 2,558 S.F.

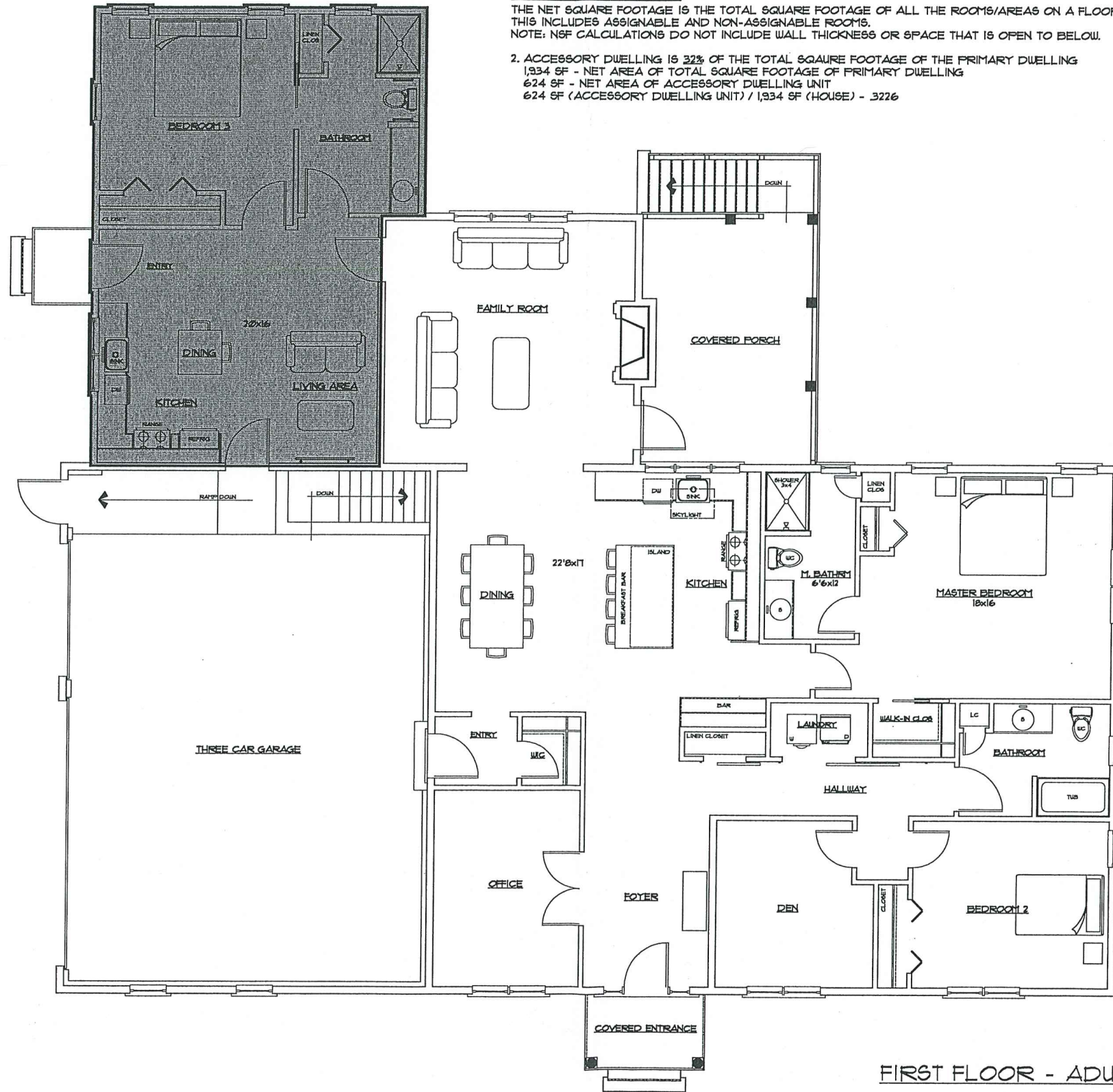
GROSS FLOOR AREA

THE SUM OF THE AREAS OF THE SEVERAL FLOORS OF A BUILDING, INCLUDING AREAS USED FOR HUMAN OCCUPANCY IN BASEMENTS, ATTICS AND PENTHOUSES AS MEASURED FROM THE EXTERIOR FACES OF THE WALLS. IT DOES NOT INCLUDE CELLARS, UNENCLOSED PORCHES OR ATTICS NOT USED FOR HUMAN OCCUPANCY. IT SHALL INCLUDE THE HORIZONTAL AREA AT EACH FLOOR LEVEL DEVOTED TO STAIRWELLS AND ELEVATOR SHAFTS.

NET SQUARE FOOTAGE (NSF)

THE NET SQUARE FOOTAGE IS THE TOTAL SQUARE FOOTAGE OF ALL THE ROOMS/AREAS ON A FLOOR. THIS INCLUDES ASSIGNABLE AND NON-ASSIGNABLE ROOMS.
NOTE: NSF CALCULATIONS DO NOT INCLUDE WALL THICKNESS OR SPACE THAT IS OPEN TO BELOW.

2. ACCESSORY DWELLING IS 32% OF THE TOTAL SQUARE FOOTAGE OF THE PRIMARY DWELLING
1,934 SF - NET AREA OF TOTAL SQUARE FOOTAGE OF PRIMARY DWELLING
624 SF - NET AREA OF ACCESSORY DWELLING UNIT
624 SF (ACCESSORY DWELLING UNIT) / 1,934 SF (HOUSE) - 32.26



FIRST FLOOR - ADU

TOWN OF SCITUATE
JAN 29 2024
PLANNING BOARD

RECEIVED

GENERAL CONTRACTOR SHALL VERIFY ALL CONDITIONS, EXISTING AND/OR PROPOSED, PRIOR TO COMMENCING ANY CONSTRUCTION WORK. ALL PERMITS AND INSURANCE COVERS SHALL BE OBTAINED PRIOR TO COMMENCING WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE COVERS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE COVERS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE COVERS.

209 DESIGN
209 BROADWAY, HANOVER, MASSACHUSETTS 03039
PH 781.259.8961 F 781.259.8833 KP@209DESIGN.COM

CLIENT: K & E CONSTRUCTION CO.
209 BROADWAY
HANOVER, MASSACHUSETTS
JAN 29 2024

TITLE: FIRST FLOOR PLAN - ADU
PROJECT: BREEN RESIDENCE
53 (LOT 5) ELM STREET, SCITUATE, MA
DATE: JANUARY 18, 2024

PROJECT NUMBER: AD2316FF-ADU
DRAWING SCALE: 1/4" = 1'-0"
SHEET NUMBER: A6

