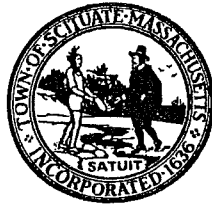


TOWN OF SCITUATE

*Planning Board*



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

**Accessory Dwelling Special Permit – 20 Deer Common Drive  
Decision: APPROVED with Conditions**

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Owner: Christine and James Forsgard  
Applicant: Deer Common II, LLC  
Date: June 13, 2017  
Location: 20 Deer Common Drive  
Assessor's Map: # 37-02-19C

Plans: Plans entitled 20 Deer Common Drive Scituate, MA by DM Designs undated Sheets A1, A2, A3 and A4; Accessory Dwelling Site Plan for # 20 (Lot 23/Lot 9) Deer Common Drive by Ross Engineering Co., Inc. dated 4/4/17.

Members Hearing Special Permit Application: William Limbacher, Ann Burbine, Richard Taylor and Benjamin Bornstein.

**Background:** The property is located in the Residential R-1 Zoning District and Water Resource Protection District. The lot area of the property is 26,206 sq. ft. The proposed accessory dwelling will be 1,008 sq. ft. and located on the first floor of a proposed single family home. The proposed accessory dwelling will be a two bedroom unit located on the first floor with a kitchen/living room/2 bedrooms and bathroom. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 1,008 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 of the accessory dwelling will be 38% of the floor area of the primary dwelling which is less than 40% as allowed in the zoning by law. The applicants have signed a notarized statement that they will occupy one of the dwelling units on the property.

**Procedural Summary:** This request for a Special Permit was filed with the Town Clerk and the Planning Board on April 27, 2017. 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 8, 2017 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 June 8, 2017 with Paul Mirabito present for the applicant. The same night, the Planning Board approved the accessory dwelling special permit with conditions.

**Public Comment:** The Planning Board received no comments in favor or opposed to the application.

**Findings of fact:** A motion was duly made and seconded to make the following Findings of Fact concerning the accessory dwelling at 20 Deer Common Drive:

1. On April 27, 2017, Christine and James Forsgard applied for a special permit for an accessory dwelling within a single family home on the property at 20 Deer Common Drive.
2. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 1,008 sq. ft. This is 38% of the total square footage of the primary dwelling which is 2,681 sq. ft. and meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings.
3. The Accessory Dwelling Site Plan dated 4-4-17 shows a two car garage and four additional outside parking spaces. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
4. The owners have submitted a signed, notarized statement that they will live on the property.
5. The main dwelling and the accessory dwelling will be serviced by a common septic system for the development. The accessory dwelling will have two bedrooms and the primary dwelling will have two bedrooms. Each of the 12 lots in the development is limited to a four bedroom home to be in compliance with the DEP Subsurface Disposal permit issued for the site.
6. According to the Common Driveway Cross Section Detail on Sheet 5 of the Definitive Flexible Open Space Development Plan entitled Deer Common by Ross Engineering, dated 9/27/07 and approved by the Planning Board 2/28/08, the surface of the Common Driveway was to be constructed to a width of 14' exclusive of the berms. From measurement in the field, the width at several locations is 13'+, with one location measuring 12'7". The constructed width is narrow for emergency vehicles and for two cars to pass in normal daily traffic.
7. The exterior stairs serving the accessory dwelling are on the side of the house.
8. 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 20 Deer Common Drive with the following conditions and standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 6/8/17:

1. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled 20 Deer Common Drive Scituate, MA by DM Designs undated Sheets A1, A2, A3 and A4; Accessory Dwelling Site Plan for # 20 (Lot 23/Lot 9) Deer Common Drive by Ross Engineering Co., Inc. dated 4/4/17.
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. Prior to obtaining an occupancy permit, the applicant must record a deed restriction limiting the total number of bedrooms in the dwelling including the primary and accessory dwelling, to four.
3. Prior to issuance of a Certificate of Occupancy for the primary dwelling or accessory dwelling, the Common Driveway shall be widened on one side so the total width is 14' throughout, and graded so stormwater will continue to flow to the catchbasin. The granite curb can be removed on that side.
4. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
5. The standard conditions for accessory dwellings approved by the Planning Board 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. 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.

- F. An Accessory Dwelling Special Permit Certification of Ownership and Occupancy signed by the 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.
- G. 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.
- H. No on-street parking by occupants of the primary or accessory dwelling shall be permitted at any time.
- I. Construction vehicles/equipment shall not idle, be parked, stored, loaded or unloaded in the street.
- J. 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.
- K. 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.
- L. 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 20 Deer Common Drive with the conditions noted above.

June 27, 2017

Date

SCITUATE PLANNING BOARD

Richard W. Taylor

Ann Burtine

William L. Baber



This decision was filed with the Town Clerk on June 27, 2017  
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