



# The Town of Barnstable

## Growth Management Department

[www.town.barnstable.ma.us/growthmanagement](http://www.town.barnstable.ma.us/growthmanagement)

Jo Anne Miller Buntich, Director

BARNSTABLE TOWN CLERK

2015 JUL 24 PM 3:30

### TOWN OF BARNSTABLE ACCESSORY AFFORDABLE APARTMENT PROGRAM

#### MINUTES

April 8, 2015 – 6:30 pm Town Hall Hearing Room

**Present:** Craig G. Larson - Hearing Officer ZBA, Elizabeth Jenkins, Principal Planner - Growth Management and Kathleen Thompson, Administrative Assistant - Growth Management

Hearing Officer Craig G. Larson called the meeting to order at 6:30 p.m.

**Notice of Recording:** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

**Approval of Minutes:** Approval of minutes from March 25, 2015.

Hearing Officer Larson moves to accept/approve the minutes of March 25, 2015.

**Public Hearings:** Pursuant to Chapter 40A, Section 11 of the General Laws of the Commonwealth of Massachusetts, and all amendments thereto, a public hearing before the Hearing Officer will be held on the following Comprehensive Permit applications, made pursuant to Chapter 40B of the General Laws of the Commonwealth of Massachusetts and Chapter 8, Section 15 of the Code of the Town of Barnstable, the "Accessory Affordable Apartment Program":

6:30 PM Appeal No. 2015-018 DeOliveira

Joana DeOliveira has applied for a Comprehensive Permit to establish a 397 square foot accessory affordable apartment within an existing dwelling. The subject property is addressed 8 Erin Lane, Hyannis, MA as shown on Assessor's Map 291 as Parcel 017 001. It is in the Residence B Zoning District.

Ms. Joana DeOliveira is in attendance. She states that she has an in-law apartment that she would like to make an accessory affordable apartment. The Building Commissioner was there and inspected the site.

Hearing Officer Larson asks if Ms. DeOliveira is aware of all the conditions 1-19.

Hearing Officer Larson asks if there is any public comment. None.

Hearing Officer Larson reads the Draft Decision Findings of Fact into the record, pg. 2 -3:

#### Findings of Fact

1. The Applicant, Joana DeOliveira, is the owner and occupant of the property located at 8 Erin Lane, Hyannis, MA as evidenced by a deed recorded at the Barnstable County Registry of Deeds on February 10, 2013 in Book 16369 Page 190. A signed Affidavit dated January 8, 2015 declares that 8 Erin Lane is the primary residence of Joana DeOliveira.

2. The application for a comprehensive permit was made in accordance with the Town of Barnstable's Accessory Affordable Apartment Program, Chapter 9 Article II of the Code of the Town of Barnstable. That program is structured as a self-regulating income-limiting local initiated housing program. A qualified funding program accepted under the Code of Massachusetts Regulations 760 Section 56.00 that governs grant of comprehensive permits.
3. In accordance with MGL Chapter 40B and 760 CMR 56.04 (4), a Site Approval Letter was issued to the Applicant for the subject property by Town Manager, Thomas K. Lynch on February 23, 2015. Notice of the Site Approval Letter was sent to the Department of Housing and Community Development in accordance with the requirements of 760 CMR 56.04 (2), and no issues were communicated from the Department on this application.
4. The Application seeks to authorize the conversion of an existing family apartment in the basement of the dwelling to an accessory affordable apartment. To permit the apartment as an accessory affordable unit under Chapter 9 Article II of the Code would represent no perceivable change in the neighborhood.
5. The Building Commissioner preformed an on-site initial inspection of the property and determined that the following improvements are necessary to bring the accessory apartment unit in conformance with applicable state building codes and local regulations:
  - a. Hard wired smoke/carbon monoxide detectors installed to present day code standards;
  - b. Installation of egress door in the bedroom;
6. The Health Director reviewed the Health Division's file regarding the on-site wastewater disposal system for the property. The property is approved for a total of two bedrooms; there is now one bedroom in the principal dwelling and one in the proposed accessory apartment. The second bedroom in the principal dwelling was removed and converted to a living room.
7. Building and occupancy permits shall be obtained prior to occupancy of the accessory apartment to ensure that the apartment unit conforms fully to all applicable building, fire, and health codes and this decision. Building permits shall be obtained for the work required by Conditions 5 and 6 of this permit as required.
8. Upon certification of this Comprehensive Permit by the Town Clerk, a Regulatory Agreement and Declaration of Restrictive Covenants, restricting the accessory apartment unit in perpetuity as an affordable rental unit shall be executed. Thereafter both the Comprehensive Permit and the Agreement shall be re-coded at the Registry of Deeds as binding covenants on the property. The documents limit the apartment to that of an affordable unit rented to a person or family whose income is 80% or less of the Area Median Income (AMI) of the Barnstable Metropolitan Statistical Area (MSA) and cap the monthly rental income (including utilities) to not exceed 30% of the monthly household income of a household earning 80% of the median income, adjusted by household size. In the event that utilities are separately metered, the utility allowance established by the Town of Barnstable shall be deducted from rent level so calculated.
9. According to the Massachusetts Department of Housing and Community Development Subsidized Housing Inventory, the Town of Barnstable has 6.7% of its year round housing stock qualify as affordable housing units. The town has neither reached the 10% statutory minimum affordable housing required in MGL Chapter 40B, nor met any of the Statutory Minima provided for in 760 CMR 56.03(3).

10. The Town of Barnstable's Comprehensive Plan encourages the adaptive use of existing housing stock to create affordable units and the dispersal of these units throughout Barnstable. This application and the location of the unit conform to that objective.

Based upon the findings, the Hearing Officer ruled that the application of Joana DeOliviera has met the requirements for standing and is deemed consistent with local needs because it adequately promotes the objective of providing affordable housing for the Town of Barnstable without jeopardizing the health and safety of the occupants provided certain conditions are imposed.

Hearing Officer Larson moves to grant this appeal with the Conditions as printed on Draft Decision dated April 8, 2015, 1 through 19, it is so ordered.

Hearing Officer Larson moves to close the Public Hearing.

**Future Meetings:** May 13, 2015

**Meeting Adjourned at 6:38 p.m.**

Respectfully Submitted  
Kathleen Thompson  
Administrative Assistant  
Growth Management Department

**List of Exhibit Documents**

**Exhibit A** Draft Comprehensive Permit Decision and Notice, Comp Permit No. 2015-008  
DeOliviera 291/017/001

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>