



The Town of Barnstable

Planning and Development

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Elizabeth Jenkins, Director

TOWN OF BARNSTABLE ACCESSORY AFFORDABLE APARTMENT PROGRAM

MINUTES

February 14, 2018 – 6:30 pm

Selectmens Conference Room

Present: Alex Rodolakis, Hearing Officer - ZBA, Anna Brigham, Principal Planner – Planning & Development, Erin K. Logan, Administrative Assistant- Planning & Development

Hearing Officer Alex Rodolakis called the meeting to order at 6:32 p.m.

Notice of Recording: This meeting is not being videotaped. The Chair inquires whether anyone else is taping this meeting and to please make their presence known. No response.

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”.

Approval of Minutes: January 10, 2018, continued to the next hearing

6:30 PM Appeal No.2018-008

Dye

Rockey Dye has applied for a Comprehensive Permit to transfer Comprehensive Permit No. 2006-020 into new ownership. Comprehensive Permit No. 2006-020 created a one-bedroom 897 square foot accessory affordable apartment within the existing single family dwelling. The subject property is addressed as 1605 Race Lane, Marstons Mills, MA as shown on Assessor’s Map 047 as Parcel 020. It is zoned Residence F.

Hearing Discussion: Rockey Dye, present

Dye acquired the property in May of 2017. The dwelling was equipped with an existing apartment which was previously used as an amnesty apartment and Dye would like to transfer that permit into his name.

Rodolakis asks Dye if he has met with Town employees and understands the process involved with obtaining and maintaining this permit. Dye responds that he has met with Arden and understands what is involved.

Rodolakis asks Dye if he already has a tenant in mind. Dye responds that he has a potential tenant.

Rodolakis asks if anyone from the public has any comments on this application. No response.

Locus

The subject property is a 1.12 acre lot and fronts onto Race Lane in Marstons Mills. The property is improved with a 4,208 gross square foot three-bedroom single family dwelling (2,720 of living area) constructed in 1983. It is served by public water and an on-site septic system.

Background

Rockey Dye seeks to transfer Comprehensive Permit No. 2006-020 into new ownership. Comprehensive Permit No. 2006-020 created a one-bedroom 897 square foot Accessory Affordable Apartment pursuant to Chapter 40B of the General Laws of the Commonwealth of Massachusetts, and in accordance with § 9-15 of the Code of the Town of Barnstable, more commonly termed the "Accessory Affordable Apartment Program".

Procedural & Hearing Summary

Rockey Dye submitted an application for a Site Approval Letter as prescribed in the Code of Massachusetts Regulations 760 Section 56.00 and provided for within the Accessory Affordable Apartment Program of the Town of Barnstable. The application was submitted as a local initiated Chapter 40B. Notification of the application was submitted to the Department of Housing and Community Development. A Site Approval Letter was issued to the Applicant for the subject property by Town Manager, Mark Ells, on November 27, 2017. Notice of the Site Approval Letter was sent to the Department of Housing and Community Development in accordance with the requirements of CMR 760 56.00.

An application for a Comprehensive Permit was filed at the Town Clerk's Office on January 3, 2018. A public hearing before the Zoning Board of Appeals Hearing Officer was duly advertised in the Barnstable Patriot on January 26, 2018 and February 2, 2018 and notices were sent to all abutters in accordance with Section 11 of MGL Chapter 40A.

Findings of Fact

At the hearing on February 14, 2018, the Hearing Officer made the following findings of fact:

Concerning *standing*, the right of the applicant to seek a comprehensive permit, the Hearing Officer found:

1. The Applicant, Rocky Dye, is the owner and occupant of the property located at 1605 Race Lane, Marstons Mills, MA, as evidenced by deed recorded at the Barnstable County Registry of Deeds on Certificate No. 212802 recorded May 5, 2017. A signed Affidavit dated October 3, 2017 declares that 1605 Race Lane, Marstons Mills, is the primary residence of Rocky Dye.
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, Mark Ells on November 27, 2017. 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.

Regarding *consistency with local needs*, the Hearing Officer found:

4. The Applicant seeks to transfer Comprehensive Permit No. 2006-020 which converted an area within the existing dwelling to an Accessory Affordable Apartment. The apartment is 897 square feet, one bedroom, and located in the existing dwelling at 1605 Race Lane, Marstons Mills. To permit the transfer of the ownership of the apartment as an accessory affordable unit under Chapter 9 Article II of the Code would represent no perceivable change in the neighborhood as it has been in existence.
5. The Building Commissioner performed an initial review of the property and determined that an accessory apartment unit can be created in conformance with applicable state building codes. Prior to occupancy, a building permit shall be required and hardwired smoke detectors and carbon monoxide detectors shall be upgraded/installed and the unit shall meet all requirements of the Building Code. (check with Building department for the transfer)

6. The property is served by an on-site septic system adequate to accommodate the addition of a one-bedroom unit on the property with a restriction from the Health Department if required. Dye indicates that the septic failed and has made arrangement for installation of a new septic.
7. The Applicant has been informed that building and occupancy permits shall be obtained prior to occupancy of the accessory apartment. This step is required to assure final approval that the apartment unit conforms fully to all applicable building, fire, and health codes and this decision.
8. The Applicant has been informed that 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 recorded 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, [Rodolakis asks Dye if the meters are separate; Dye indicates the utilities are not separate] the utility allowance established by the Town of Barnstable shall be deducted from rent level so calculated. According to the Massachusetts Department of Housing and Community Development, Subsidized Housing Inventory, the Town of Barnstable has 7.14% of its year round housing stock qualified as affordable housing units. The town has not reached the 10% statutory minimum affordable housing required in MGL Chapter 40B or met any of the Statutory Minimum provided for in 760 CMR 56.03(3).
9. 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 Rockey Dye 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.

Decision & Conditions:

The Hearing Officer ruled to grant Comprehensive Permit No. 2018-008 to Rockey Dye for 1605 Race Lane, Marstons Mills to allow the transfer of the ownership of the one-bedroom affordable apartment unit at 1605 Race Lane, Marstons Mills as provided for in Chapter 9, Article II of the Code of the Town of Barnstable and in conformity to the following conditions and restrictions:

1. Occupancy of the affordable unit shall not exceed two (2) persons.
2. The number of bedrooms in the Accessory Affordable Apartment shall be limited to one (1).
3. Family members of the applicants/owners shall not at any time occupy the accessory unit.
4. All leases shall have a minimum term of one year and have provisions that require the tenant to provide any and all information necessary to verify eligibility with the Accessory Affordable Apartment Program including income information of the tenant and rent and utility payments.
5. All parking for the accessory apartment and the principal dwelling shall be on-site. Overnight on-street parking is expressly prohibited.
6. Accessory lodging or renting of rooms is prohibited for the duration of this Comprehensive Permit.
7. The applicants shall, after certification of this Comprehensive Permit by the Town Clerk:
 - a. execute a Regulatory Agreement and Declaration of Restrictive Covenants, as approved by the Town Attorney's Office, and
 - b. make application for a building permit with the Building Division for the accessory apartment. Work required to bring the unit into compliance with present day code standards shall be completed prior to issuance of a Certificate of Occupancy for the accessory apartment.

8. It is the explicit intent that the applicant secure an occupancy permit and the unit be occupied by qualified tenant(s) as restricted by this comprehensive permit within one-year of the certification of the permit. The Building Commissioner and/or monitoring agent may extend this time for good cause.
9. To meet affordability requirements, the rent charged (including utilities) shall not exceed 30% of 80% of the median income for the Barnstable MSA, adjusted for family size, as calculated and published annually by the Town of Barnstable. 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.
10. The applicant shall engage in open and fair marketing of the unit and provide documentation of the activity to the Housing Coordinator/Monitoring Agent.
11. Information regarding the income level of any prospective tenant shall first be submitted to and approved by the Housing Coordinator/Monitoring Agent before any lease is signed.
12. Annually, the applicant shall work with the Housing Coordinator/Monitoring Agent to provide necessary information and documentation of tenant income eligibility and conformance with the Accessory Affordable Apartment Program.
13. The Applicant must register the unit with the Regulatory Services Department at 200 Main Street, Hyannis.
14. Whenever a vacancy occurs, notice shall be given to the Housing Coordinator/Monitoring Agent before reengaging the tenant selection process previously cited.
15. Annual Income, to determine program eligibility, will be calculated per 24 CFR Part 5.
16. The Housing Coordinator of the Planning and Development Department shall be the monitoring agent for the accessory apartment. Annual monitoring shall include verification of tenancy, affordability, and compliance with Comprehensive Permit. The homeowner shall be responsible for the fee for Housing Quality Standards (HQS) inspections.
17. Every twelve months the applicant shall review the income eligibility of the tenant of the Accessory Affordable Apartment unit. No later than a year from the date of issuance of this Comprehensive Permit, the applicant shall file with the Housing Coordinator/Monitoring Agent an annual affidavit stating the rent charged and income of the unit tenant along with all required supporting documentation. The property owners and/or tenant shall provide any additional information deemed necessary to verify the information provided in the affidavit and annual monitoring documents.
18. Upon any report from the Housing Coordinator/Monitoring Agent that the terms and conditions of this permit are not being upheld, the Hearing Officer of the Zoning Board of Appeals may hold a hearing to revoke this permit or cause enforcement action to be taken for compliance.
19. This Decision, the Regulatory Agreement and Declaration of Restrictive Covenants and all other necessary documents shall be recorded at the Barnstable County Registry of Deeds prior to application for a building permit.
20. Should ownership of the subject property transfer, the permit holder identified herein shall notify the Housing Coordinator/Monitoring Agent and provide, within 60 days of the date of transfer, the name and current contact information for the new owner of the subject property.
21. This Comprehensive Permit shall be exercised as conditioned herein or it shall expire.

Ordered

Comprehensive Permit No. 2018-008 is granted with conditions to Rockey Dye for property addressed as 1605 Race Lane, Marstons Mills, MA. This permit is not transferable without prior permission of the Hearing Officer. The zoning relief issued in this Comprehensive Permit is that of a variance to Section 240-14(A) Principal permitted uses in the RF Zoning Districts to permit a one-bedroom accessory affordable apartment unit within the attached garage.

Public Comment - None

Hearing Officer Alex Rodolakis moves to close the Public Hearing. Meeting Adjourned at 6:44 p.m.

Respectfully Submitted
Erin K. Logan
Administrative Assistant
Planning and Development Department

List of Exhibit Documents

Exhibit A - Draft Comprehensive Permit Decision and Notice, Comp Permit No. 2018 - 008

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Approved