



The Town of Barnstable

Growth Management Department

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Jo Anne Miller Buntich, Director

BARNSTABLE TOWN CLERK

2015 MAR 26 PM 1:33

TOWN OF BARNSTABLE ACCESSORY AFFORDABLE APARTMENT PROGRAM

MINUTES

February 25, 2015 – 6:30 pm

Town Hall Hearing Room

Present: Craig G. Larson - Hearing Officer ZBA, Elizabeth Jenkins, Principal Planner - Growth Management and Karen Herrand, 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: Hearing Officer Craig Larson moves to approve the minutes of January 14, 2015, as written.

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":

Appeal No. 2015-008 - Jenkins

Nelson Jenkins has applied for a Comprehensive Permit to convert a former family apartment into a 900 sq.ft two-bedroom accessory affordable apartment. The subject property is addressed 35 Capes Trail, West Barnstable, MA and is shown on Assessor's Map 108 as Parcel 002-002. It is in the Residence F Zoning District.

Hearing Officer Craig G. Larson opens the public hearing.

Applicant Nelson Jenkins in attendance. He gives a brief history/description. Purchased the home in 2013, he was not aware they could not have a kitchen in the second part of the house.

Hearing Officer Craig Larson asks if this is his primary residence and asks Mr. Nelson to swear that this is true and correct because if not this will void the permit and this kitchen would have to be removed completely.

Nelson Jenkins swears that this is his primary residence.

Hearing Officer Craig Larson asks for any public comment. No public comment.

Hearing Office Craig Larson reads the Findings of Fact into record: Findings 1 through 10 (Exhibit A)

Findings of Fact

At the hearing on February 25, 2015, the Hearing Officer made the following findings of fact:

Concerning *standing*, the right of the applicant to seek a comprehensive permit, Mr. Larson found;

1. The Applicant, Nelson Jenkins, is the owner and occupant of the property located at 35 Capes Trail, West Barnstable, MA as evidenced by a confirmatory deed recorded at the Barnstable County Registry of Deeds on November 3, 2013 in Book 27803 Page 76. A signed Affidavit dated October 21, 2014 declares that 35 Capes Trail, West Barnstable is the primary residence of Nelson Jenkins.
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 December 11, 2014. 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 authorize use of a 900 sq.ft two-bedroom accessory affordable apartment; the unit was originally constructed and permitted as a family apartment. No alterations or expansions to the existing structure are being proposed. 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 accessory apartment unit is in conformance with applicable state building codes and local regulations.
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 five bedrooms; there are currently three bedrooms in the principal dwelling and two bedrooms in the accessory apartment.
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.
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 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, 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 Minimal 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.

Hearing Officer Craig Larson moves to grant/approve this appeal with the following conditions as presented on the Draft Decision (Exhibit A) pgs. 3 through 4, Conditions 1 through 19.

Future Meetings: March 25, 2015

Meeting Adjourned at 6:38 p.m.

Respectfully Submitted
Karen Herrand
Administrative Assistant
Growth Management Department

List of Exhibit Documents

Exhibit A – Draft Comprehensive Permit Decision and Notice, Comp Permit No. 2015-008 – Jenkins Map/Par 108/002/002

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