



The Town of Barnstable

Planning and Development

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Elizabeth Jenkins, Director

TOWN OF BARNSTABLE ACCESSORY AFFORDABLE APARTMENT PROGRAM

MINUTES

June 28, 2017 – 6:30 pm Town Hall Hearing Room

Present: Brian Florence - Hearing Officer ZBA, Anna Brigham, Principal Planner – Planning and Development and Kathleen Thompson, Administrative Assistant – Planning and Development

Hearing Officer Brian Florence 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 dated June 14, 2017

6:30 PM

Appeal No. 2017-050

Riche

The Applicants, Robert and Diane Riche have applied for a Comprehensive Permit to convert a legal family apartment to a one bedroom Accessory Affordable Apartment within the existing dwelling. The subject property is at 55 Thankful Lane, Cotuit Ma. As shown on the Assessor's Map 039 as Parcel 031. It is zoned Residence F.

Diane Riche steps up to the podium and states she would like to put an amnesty apartment in their home. They have a legal family apartment which they would like to convert.

Mr. Florence asked if they had read the conditions and if they have any questions. Ms. Riche stated that they read the conditions and don't have any questions.

Mr. Florence read into record:

Applicant/Site Control

The Applicants are Robert and Diane Riche, the owners and occupants of property addressed as 55 Thankful Lane, Cotuit Ma. The Applicants have been the owners of the property since July, 2009, as evidenced by a deed recorded at the Barnstable County Registry of Deeds on July 7, 2009 as Certificate No. 188974. A signed Affidavit dated April 18, 2017, declares that 55 Thankful Lane, Cotuit is the primary residence of Robert Riche and Diane Riche.

Locus

The subject property is a .92 acre lot created by a 1967 Plan of Land approved on February 19, 1968 and recorded at Land Court as Certificate No. 22824. The lot fronts onto Thankful Lane, south of Falmouth Road. The property is improved with a 3,141 gross square foot four-bedroom single family dwelling (1,344 living area) constructed in 1982. It is served by public water and an on-site septic system.

Background

Robert and Diane Riche seek to convert a legal Family Apartment to an Accessory Affordable Apartment. The apartment is located in the lower level of their existing dwelling and consists of 640 square feet. In Appeal No. 1996-133, the applicant, SMR Realty Trust, sought a Special Permit to legalize a family apartment that already existed. The Riches seek to convert the Family Apartment to a one bedroom Accessory Affordable Apartment by a Comprehensive Permit 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

On August 4 and August 8, 2017, Robert and Diane Riche 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 May 22, 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 May 23, 2017. A public hearing before the Zoning Board of Appeals Hearing Officer was duly advertised in the Barnstable Patriot on June 9, 2017 and June 16, 2017 and notices were sent to all abutters in accordance with Section 11 of MGL Chapter 40A.

Findings of Fact

At the hearing on June 28, 2017, 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 Applicants, Robert and Diane Riche, are the owners and occupants of the property located at 55 Thankful Lane, Cotuit, MA, as evidenced by a deed recorded at the Barnstable County Registry of Deeds on July 7, 2009 as Certificate No. 188974. A signed Affidavit dated April 18, 2017 declares that 55 Thankful lane, Cotuit is the primary residence of Robert and Diane Riche.
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 May 22, 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 Applicants are proposing to convert an existing Family Apartment to an Accessory Affordable Apartment. The apartment is 640 square feet, one bedroom and located in the lower level of the existing dwelling at 55 Thankful Lane, Cotuit. 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 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.
6. The property is served by an on-site septic system adequate to accommodate the addition of a one-bedroom unit on the property.
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, 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 6.6% 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 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 Robert and Diane Riche 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.

Mr. Florence ended with granting the Comprehensive permit.

Public Comment - None

Hearing Officer Florence moves to close the Public Hearing.

Meeting Adjourned at 6:47 p.m.

Respectfully Submitted
Kathleen Thompson
Administrative Assistant
Planning and Development Department

List of Exhibit Documents

Exhibit A Draft Comprehensive Permit Decision and Notice, Comp Permit No. 2017-050
Riche

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

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”: