



The Town of Barnstable Planning and Development

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Elizabeth Jenkins, Director

TOWN OF BARNSTABLE ACCESSORY AFFORDABLE APARTMENT PROGRAM

MINUTES

January 10, 2018 – 6:30 pm

Selectmens Conference Room

Present: Brian Florence, Hearing Officer - ZBA, Anna Brigham, Principal Planner – Planning & Development, Stacey Hurwitz, Administrative Assistant Planning & Development

Hearing Officer Alex Rodolakis called the meeting to order at 6:31 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: December 13, 2017. Minutes were approved as written.

6:30 PM Appeal No. 2018-002

Cabral

Catherine Cabral has applied for a Comprehensive Permit to convert 672 square feet of area to a one-bedroom accessory affordable apartment within the existing dwelling. The subject property is addressed 92 Maushop Avenue, Barnstable, MA as shown on Assessor’s Map 299 as Parcel 080. It is zoned Residence G.

Hearing Discussion: Catherine Cabral, the applicant and owner, of 92 Maushop Avenue, Barnstable is present. James Rogers an abutter is also present.

Catherine Cabral stated the apartment is already pre-existing. She bought the house at the end of August. The apartment is a separate area above the garage and previously was used as an apartment. She is unclear of the usage but believes it was rented and was used as an in law apartment originally.

Hearing Officer Alex Rodolakis asks if the Building Inspector went out and inspected. Ms. Cabral answers, Yes. Hearing Officer Alex Rodolakis asks if Ms. Cabral is aware of the requirements including annual inspections and reporting. Ms. Cabral answers, Yes.

James Rogers lives at 21 Dorcas Drive which is about 300 feet from Cabral’s property. He has some concerns about the apartment future renters. Rogers has owned his home for about 40 years. There was a doctor who lived at 92 Maushop initially who originally created the apartment for his mother. To his knowledge the prior owner used it for his son and it was to be used for family only. His concern is with the outside rental (different set up), concerns it will change the neighborhood. Mr. Rogers would like to know if there are guidelines on the rental, does it come from a pool of applicants? What are the guidelines?

Hearing Officer Alex Rodolakis explains the AAAP program. The apartment has to be advertised to the public and the landlords must abide by specific guidelines for income level for the tenant. The apartment does already exist. He understands it can change the nature of a single family house, but the property and Ms. Cabral are in

compliance. He advises if Mr. Rogers witnesses possible non-compliance issues going forward he can report them to the town.

Ms. Cabral stated she had asked some of the neighbors before and there was concern. She is a single mother and her son is in college. She is there by herself so she is concerned about the person she rents to as well.

Hearing Officer Alex Rodolakis states the apartment is limited to two people & a one year lease (not short term or Air BnB). Parking to be on site, not on street parking. The purpose of the program is to help the affordable housing stock in town. There isn't a lot of leeway here as the applicant is in compliance. The town views this as a better system than to just allow people to make their own apartment.

Mr. Rogers asks if there is a pool of applicants you have to pick from? There is no pool of applicants to choose from.

It is clarified the landlord has annual monitoring requirements including submission of tenant paystubs & tax returns. Mr. Rogers wants to make sure it will be monitored. It would have to blow up for it to come to his attention, it would affect the neighbors on Maushop most.

Rodolakis grants Comprehensive Permit 2018 – 002 to Catherine Cabral for 92 Maushop Avenue, Barnstable, MA.

Locus

The subject property is a .49 acre lot and fronts onto Maushop Avenue at the end of Dorcas Drive in Barnstable Village. The property is improved with a 3,952 gross square foot four-bedroom single family dwelling (2,352 of living area) constructed in 1976 with an attached 2-car garage. It is served by public water and an on-site septic system.

Background

Catherine E. Cabral seeks to convert 672 square feet of area within the existing dwelling 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

Catherine E. Cabral 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 October 2, 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 December 14, 2017. A public hearing before the Zoning Board of Appeals Hearing Officer was duly advertised in the Barnstable Patriot on December 22 and December 29, 2017 and notices were sent to all abutters in accordance with Section 11 of MGL Chapter 40A.

Findings of Fact

At the hearing on January 10, 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, Catherine E. Cabral, is the owner and occupant of the property located at 92 Maushop Avenue, Barnstable, MA, as evidenced by deed recorded at the Barnstable County Registry of Deeds on Book 30725 Page 187 recorded August 28, 2017. A signed Affidavit dated August 29, 2017 declares that 92 Maushop Avenue, Barnstable, is the primary residence of Catherine E. Cabral.
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 October 2, 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 is proposing to convert an area within the existing dwelling to an Accessory Affordable Apartment. The apartment is 672 square feet, one bedroom, and located in the upper level of the existing attached garage at 92 Maushop Avenue, Barnstable. 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 with a restriction from the Health Department if required.
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 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 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 Catherine E. Cabral 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. 2018-002 to Catherine E. Cabral for 92 Maushop Avenue, Barnstable to allow the conversion of the area on the second floor of the attached garage to a one-bedroom affordable apartment unit at 92 Maushop Avenue, Barnstable 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. 2018-002 is granted with conditions to Catherine E. Cabral for property addressed as 92 Maushop Avenue, Barnstable, 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 240-13(A) Principal permitted uses in the RG 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 6:51 p.m.

Respectfully Submitted
Stacey Hurwitz
Administrative Assistant
Planning and Development Department

List of Exhibit Documents

Exhibit A - Draft Comprehensive Permit Decision and Notice, Comp Permit No. 2018 - 002

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":