

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF:

**Ron Mullen
Petitioner
Andrea Donnelly
Owner**

OPINION OF THE BOARD

**REQUEST FOR SPECIAL PERMIT
19 Granite Street
Medway, MA 02053**

Hearing: June 7, 2017

Decision: June 7, 2017

MEMBERS PRESENT:

**David Cole, Chairman
Carol Gould, Clerk
Eric Arbeene, Member
Brian White, Member
William Kennedy, Member
Rori Stumpf, Associate Member
Bridgette Kelly, Associate Member**

THE WRITTEN OPINION WAS DELIVERED ON JUNE 15, 2017

RECEIVED

JUN 15 2017

TOWN CLERK

*30 day appeal
July 5, 2017*

OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA (hereinafter the Board) acting under the Zoning Bylaw of the Town of Medway, MA, 02053, and Massachusetts General Laws, Chapter 40A, as amended, in which the petitioner, Ron Mullen, seeks a Special Permit under Section 8.2 for an age-in-place Accessory Family Dwelling Unit, intended to be 1320 square feet, with respect to the property, owned by Andrea Donnelly, located at 19 Granite Street, Assessor Parcel ID 64-048, AR-II Zoning District.

Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on May 17, 2017 and May 24, 2017. Notice also was sent to all “parties of interest” and posted in the Town Hall as required by Massachusetts General Laws, Chapter 40A Section 11.

The following documents were received by the Board and included as part of the Application and file for this case:

1. Application received and stamped by the Town Clerk on April 24, 2017
2. Existing and Proposed Elevations and Floor Plans, received on April 24, 2017
3. Certified Plot Plan of 19 Granite Street, dated August 10, 2002, prepared by DeSimone & Associates of 11 Awl St. Medway, MA 02053
4. Correspondence from Mackenzie Leahy, Community & Economic Development Administrative Assistant, to Ron Mullen, dated April 24, 2017
5. Correspondence from Mackenzie Leahy, Community & Economic Development Administrative Assistant, to Ron Mullen, dated May 3, 2017
6. Letter from homeowner, Andrea Donnelly, received May 4, 2017
7. Plot Plan of 19 Granite Street showing proposed additional parking spot location, as required for an Accessory Family Dwelling Unit, received May 4, 2017
8. Revised Elevations and Floor Plans with labels, received May 9, 2017
9. Letter from Ron Mullen, received May 9, 2017
10. Pictures of Entry Drive to and Existing Home at 19 Granite Street, received May 9, 2017
11. Letter from John Scott Smith, 23 Granite Street, received June 7, 2017

The Public Hearing opened and closed on June 7, 2017, and all deliberations were conducted and the Decision rendered on the same day. The Medway Zoning Board of Appeals members present during the public hearing were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene,

Member; William Kennedy, Member; Rori Stumpf, Associate Member; and Bridgette Kelly, Associate Member. The Board members voting were David Cole, Chairman; Carol Gould, Clerk; Eric Arbeene, Member; William Kennedy, Member; and Brian White, Member.

Hearing Summary

The Applicant, Ron Mullen, appeared before the Board to discuss the request for a Special Permit under Section 8.2 to allow for an Accessory Family Dwelling Unit. Attorney Steve Kenney, of Kenney & Kenney, was also present.

Chairman Cole asked what the relationship was between the Applicant and the home at 19 Granite Street. Mr. Mullen explained that Andrea Donnelly was the homeowner of 19 Granite Street and that he was the contractor who would construct the addition to the home.

Attorney Kenney explained that the home is located in the AR-II Zoning District. The homeowner was requesting a special permit to construct an Accessory Family Dwelling Unit attached to the existing single family home. The unit would be for Ms. Donnelly's mother and forty-two year old brother with special needs. The attached unit would be two floors, two bedrooms, and one and a half bathrooms, totaling 1320 square feet. The Accessory Family Dwelling Unit would be in character with the existing neighborhood. Mr. Kenney references the May 8, 2017 letter from Ron Mullen, and explained that although 800 square feet is allowed, Section 8.2.C.4 and 8.2.C.8 may allow for reasonable accommodations and deviations from the (Section 8.2.C) Basic Requirements. The second entrance as required in Section 8.2.C.7 was proposed to be accessed from a covered porch. The existing home is "off the road" and not visible from Granite Street. The parking space as required in Section 8.2.C.5 would be provided to the right of the new garage. Mr. Kenney stated that the application met all requirements, with reasonable deviations from the Basic Requirements as needed.

Chairman Cole asked if both family members would be driving a car. Mr. Kenney explained that there would only be one vehicle.

Chairman Cole asked if there was a proposed second means of egress, as required by building code. Mr. Mullen explained that there was a slider at the rear of the building.

Chairman Cole stated that from the look of the proposed front elevations, it appeared as though the existing home was "duplicated" for the addition of the Accessory Family Dwelling Unit.

Chairman Cole asked what would become of the existing garage. Mr. Mullen explained that the garage is currently on the side of the existing home, the garage would be moved to the front of the home on the addition.

Mr. Stumpf asked if there would be room for the cars to turn around. Mr. Mullen explained that the driveway is roughly 36 feet wide. Mr. Stumpf asked if there would be trees removed; Mr. Mullen stated that there would be no trees cut.

Chairman Cole asked if there would be any changes to the existing driveway. Mr. Mullen stated that they would stay within the confines of the existing driveway. Chairman Cole asked if the existing stone wall would be removed. Mr. Mullen stated that it would be.

Mr. Kennedy asked if the home was currently on Town water and sewer. Mr. Mullen stated that the home was on Town water and private septic.

Chairman Cole asked how large the existing dwelling was; Mr. Mullen stated that the home was around 2,500 square feet.

Mackenzie Leahy, Community & Economic Development Administrative Assistant, stated that the items which she had outlined in her correspondence to Mr. Mullen had been addressed and both she and Jack Mee, Building Commissioner and Zoning Enforcement Officer had been satisfied with Mr. Mullen's responses.

Debora Stapleton, of 25 Granite Street, stated that she was supportive of the proposal. Ms. Stapleton asked if the unit would require additional septic. Mr. Mullen stated that it would require additional septic and that he was in the process of getting a septic design plan approved, the septic is in the back yard, and there would be no additional square footage. There were three lines for the system currently and a fourth line would most likely need to be added.

Ms. Leahy stated that the Fire Chief usually requires that fire systems for the existing home and accessory family dwelling units are interconnected and asked if the fire system for the unit would be connected with the existing home. Mr. Mullen responded that it would be.

The hearing was closed and the Board deliberated later that evening.

Mr. White stated that the application had a unique circumstance. The letter provided by the applicant and homeowner made him inclined to support the application.

Ms. Kelly stated that the proposed unit seemed appropriate given that it couldn't be seen from the road.

Mr. Stumpf stated that the application was another great example of what the Accessory Family Dwelling Unit special permit was for. Mr. Stumpf felt that the unit would not be

detrimental to the existing neighborhood and given the layout of the home to the street the two doors were okay.

Mr. Arbeene stated that he say no issues and had no problem with the application.

Ms. Gould stated that the one issue she had was how large the house would be after the addition of the unit but because of the setback from the road it wasn't as much of an issue in this case. Mr. Kennedy said that there are other homes of that size in the neighborhood.

Ms. Gould asked for clarification on the set of stairs up the porch to the entry door of the unit. Ms. Leahy stated that there had been a set of stairs to the door on the previous plans but that the set of stair had been removed on the revised plans and that the fencing of the porch would be continuous with the exception of the existing set of stairs.

Findings:

By a vote of 5-0-0:

1. The Board finds that the applicant demonstrated that the proposed Accessory Family Dwelling Unit met the requirements of Section 8.2 C. Basic Requirements except that (8.2.C.4) the area of the Accessory Family Dwelling Unit exceeded 800 square feet and that (8.2.C.7) the entrance would be provided on the side or rear of the building.
2. The Board finds that since the proposed Accessory Family Dwelling Unit is to accommodate two eligible persons, not being spouses, the provisions (8.2.C.8) a of second bedroom for an Accessory Family Dwelling Unit is required and an increase in the Accessory Family Dwelling Unit beyond the normal requirement of 800 square feet, that the proposed are of 1320 square feet is reasonable, and that the provision of a second bedroom is authorized.
3. The Board finds that the applicant provided good reasons why a second entrance on the front of the house was desirable, namely that need to access the Accessory Family Dwelling Unit by a covered porch to minimize slip-and-fall injuries, and that having regard of the essential invisibility from the road, the provision of an entrance at the front of the house would not deviate from the intent of the Zoning Bylaw, and thus an entrance at the front of the house, in accordance with the plans submitted, is hereby authorized.
4. The Board finds that the location, quantity, and adequacy of parking has been reviewed by the Board to ensure that the location and appearances is in keeping with the residential character of the AR-II Zoning District and adequately provides parking to the existing and proposed occupants.
5. The Board finds that grant of the requested Special Permit would not be inconsistent with any of the criteria set forth in Section 3.4. C. Decision Criteria and would not be detrimental to the public good.

Relief Granted:

By a vote of 5-0-0:

The Board grants to Andrea Donnelly of 19 Granite Street, a Special Permit pursuant to Section 8.2 of the Medway Zoning Bylaw for an Accessory Family Dwelling Unit which shall be constructed substantially in accordance with the plans provided and subject to the following conditions set forth in Section 8.2 D. 2:

- a. Recording. The special permit shall be recorded with the Registry of Deeds prior to issuance of an occupancy permit for the accessory family dwelling unit.
- b. Transfer of Ownership. If the new owner(s) desires to continue to exercise the special permit, they must, within thirty (30) days of the conveyance, submit a notarized letter to the Building Inspector stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences, and that the accessory family dwelling unit is to be occupied by one of parties specified in Section 8.2 C. 6. b.
- c. Bi-Annual Certification. The owner of the property shall provide a bi-annual certification to the Building Inspector verifying that the unit not occupied by the owner is occupied by one of the parties specified in Section 8.2 C. 6. b. or that the space is being used for another lawfully allowed use pursuant to this Bylaw.

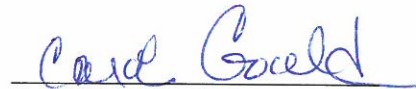
The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to MGL c. 40A, Section 17, within twenty (20) days after the date of filing this Decision with the Town Clerk.

In accordance with MGL c. 40A, Section 11, no variance or special permit shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, that it has been dismissed or denied, is recorded in the Norfolk County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

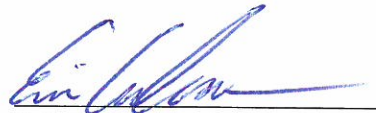


David J. Cole, Chairman

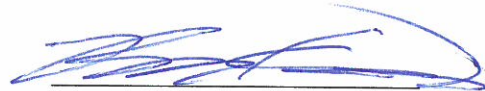


Carol Gould, Clerk

William Kennedy, Member



Eric Arbeene, Member



Brian White, Member

Rori Stumpf, Associate Member

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