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Town of Southborough
BOARD OF APPEALS

SOUTHBOROUGH, MASSACHUSETTS 01772

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SOUTHBOROUGH, MASSACHUSETTS 01772-1662
508-485-0717 ext. 1

James F. Hegarty
Town Clerk
Town House
17 Common Street
Southborough, Massachusetts 01772

January 23, 2024

Notice of Decision of an Application for a Special Permit & Variance

Property Address: 10 Winter Street, Southborough, MA 01772

Map/Lot: Map 38, Lot 32

Book/Page: Book 32385, Page 315

Petitioner(s): Patricia Burns Fiore
10 Winter Street
Southborough, MA 01772

Application Filed: December 1, 2023

Public Hearing: January 17, 2024 at 7:00 P.M.
McAuliffe Hearing Room, 17 Common Street

Sitting as a Board: David Williams, Chair
Michael Robbins, Clerk
Paul Drepanos
Doris Cahill
Jamie Mieth

For the Petitioner: Patricia Burns Fiore

Procedural History:

1. An application for a Special Permit and Variance was filed in the Office of the Southborough Building Department and the Office of the Southborough Town Clerk on December 1, 2023.
2. The applications for the Special Permit and Variance are to allow an accessory apartment that exceeds the maximum habitable floor area. Relief was requested under Section 174-9 B.

3. The record owner of the subject property is Patricia Burns Fiore, 10 Winter Street, Southborough, MA 01772
4. A public hearing before the Zoning Board of Appeals was duly noticed in the Community Advocate on January 3, 2024, and January 10, 2024.
5. The applicant was heard at the January 17, 2024, Zoning Board of Appeals meeting after describing that she is looking to construct an accessory apartment that would be 894 sq ft, or 34% of the existing habitable floor area of the entire dwelling plus accessory building, which would exceed the maximum habitable floor area of 25%.
6. The public hearing opened on January 17, 2024, and closed the same evening.

Plans/Documents:

1. Special Permit and Variance Application – 10 Winter Street, dated December 1, 2023, and revised on January 9, 2024
2. Project Narrative – 10 Winter Street, dated December 1, 2023, and revised on January 2, 2024
3. Interior Floor Plan – 10 Winter Street, dated December 1, 2023, and revised on January 2, 2024
4. Septic System As-Built, prepared by Bruce Saluk & Assoc, Inc. Civil Engineers & Surveyors, 576 Boston Post Road, Marlborough, MA 01752, dated June 6, 1997
5. Photograph of subject property
6. Letter from Dennis Costello, Board of Health, re: Septic System, dated December 6, 2023
7. Report from Southborough Planning Board re: Accessory Apartment, dated January 8, 2024
8. Deed – 10 Winter Street, Book 32385, Page 315
9. Certified Abutters List – 10 Winter Street
10. Legal Ad Billing Agreement

Findings:

1. The proposal constitutes a Special Permit under the Town of Southborough Zoning Bylaw.
2. The proposal constitutes a Variance under the Town of Southborough Zoning Bylaw.
3. The property is located in the Residence B zoning district.
4. The existing habitable floor area of the entire dwelling, plus the accessory building in which the accessory apartment would be located, is 2594 sq ft. The maximum allowable habitable floor area of the accessory apartment is 25%, or 648.5 sq ft.
5. The applicant is seeking to construct an accessory apartment that has 894 sq ft, or 34% of the existing habitable floor area, which exceeds the maximum requirement of 25% as outlined in Section 174-9 B (1) of the Southborough Zoning Bylaw.
6. The proposal and evidence presented meet the criteria to grant the Special Permit:
 - a. There is no other apartment on the lot on which the accessory apartment is proposed.
 - b. No more than the required minimum exterior alterations have been or will be made to the accessory building.
 - c. The total cumulative number of accessory apartments permitted by the Board of Appeals since January 1979 does not exceed 5% of the total number of one-family houses in Southborough at the beginning of 2023, the year in which the application was filed.
7. The proposal and evidence presented meet the criteria to grant the Variance:
 - a. Due to circumstances relating to the shape of land or structures and especially affecting such land or structures but not affecting generally the Residence B zoning district, literal enforcement of Section 174-9 B would involve substantial hardship to the petitioner.

- i. The size of the dwelling is smaller in nature due to the age of the home, which limits the allowable size of the accessory apartment.
- ii. The location of the septic does not allow for expansion due to its proximity to the Sudbury Reservoir.
- iii. It would be cost-prohibitive to make the accessory building smaller to conform with the 25% maximum habitable floor area requirement.
- b. The desired relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of Chapter 174 of the Southborough Zoning Bylaw.

8. There are no objections from the public regarding this application, which is in harmony with the intent of the bylaw.

Decision and Vote of the Board:

At its meeting on January 17, 2024, the Zoning Board of Appeals voted unanimously (5-0-0) to grant the Special Permit & Variance pursuant to Section 174-9 B of the Southborough Zoning Bylaw to allow an accessory apartment that exceeds the maximum habitable floor area.

After review of all evidence and facts presented at this hearing, and after deliberation of the same, the Board voted unanimously (5-0-0) on a motion made by Mr. Robbins and seconded by Ms. Mieth, with members voting by roll call as follows to grant the requested Special Permit:

| | |
|-----------------|-----|
| Jamie Mieth | Aye |
| Paul Drepanos | Aye |
| Doris Cahill | Aye |
| Michael Robbins | Aye |
| David Williams | Aye |

Pursuant to the vote taken by the Zoning Board of Appeals on September 20, 2023, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Board's electronic signature authorization vote recorded on November 6, 2023, with the Worcester Registry of Deeds, Book 69850, Page 154.

/s/David Williams

David Williams, Chair
Signing on behalf of the Zoning Board of Appeals

Notice: Appeals, if any, shall be made pursuant to MGL c. 40A, Section 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Southborough Town Clerk. Further, no special permit, variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, or that if it is a special permit or variance which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the petition for the special permit or variance accompanied by the certification of the city or town clerk stating the fact that the permit

granting authority failed to act within the time prescribed, and no appeal has been filed, and that the grant of the petition resulting from such failure to act has become final, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located 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.

Pursuant to the Town of Southborough Zoning Bylaws, Section 174-25 A (3), if the rights authorized by a variance are not exercised within one year from the date of grant thereof, they shall lapse, and a new petition, notice and hearing will be required for their reestablishment.

The Board of Appeals calls to the attention of the owner or applicant that pursuant to M.G.L. c. 40A, § 9, this Special Permit shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. c. 40A, § 17, if substantial use thereof has not sooner commenced, except for good cause.

**** NOT VALID FOR RECORDING UNTIL CERTIFIED BY THE TOWN CLERK OF SOUTHBOROUGH****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Southborough Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest: _____ Date: _____

James F. Hegarty, Town Clerk
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