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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

SPECIAL PERMIT

***Mary DeMaio, owner
926 Greendale Avenue
Map 14, Parcel 52***

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts 2020)

November 19, 2020

Mary DeMaio, applicant, made application to the Board of Appeals for a Special Permit under Sections 3.15, 7.5.2 and any other applicable Sections of the By-Law to allow the addition of an Accessory Dwelling Unit. The property is located at **926 Greendale Avenue**, Needham, MA in the Single Residential A District. A public hearing was held remotely on Zoom Meeting ID Number 81007196060, on Thursday, November 19, 2020 at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped October 26, 2020.
- ADU – ZBA Special Permit Application.
- Proposed Plot Plan prepared and stamped by Edward T. Eisenhaure, Professional Land Surveyor, dated September 7, 2020.
- Design Plans A0.0, A1.02, A2.01-02, A3.01, A4.01-03, S1.00-01, prepared by MCD+LLG; stamped by Registered Architect Ronald F. Jarek, May 14, 2020.
- Email from Dave Roche, Building Commissioner, dated November 13, 2020.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated November 11, 2020.
- Letter from Lee Newman, Director of Planning and Community Development, dated November 18, 2020.
- Email from Tara Gurge, Assistant Public Health Director, November 5, 2020 and November 19, 2020.
- 926 Greendale Avenue - ZBA Variance - September 6, 1960

Documents received prior to the December 17 Meeting:

- Revised Proposed Plot Plan prepared and stamped by Edward T. Eisenhaure, Professional Land Surveyor, revised December 7, 2020.
- Revised Design Plans A0.0, A1.02, A2.01-02, A3.01, A4.01-03, S1.00-01, prepared by MCD+LLG; stamped by Registered Architect Ronald F. Jarek, dated December 7, 2020.
- Email from Tara Gurge, Assistant Public Health Director, December 4, 2020.
- Email from David Roche, Building Commissioner, December 11, 2020.

- Revised Design Plans Revised Design Plans A0.0, A1.02, A2.01-02, A3.01, A4.01-03, S1.00-01, prepared by MCD+ LLG; stamped by Registered Architect Ronald F. Jarek, revised January 6, 2021.

November 19, 2020

The Board held this meeting virtually as allowed under “Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20.”

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Howard Goldman, Member. Also participating was Kathy Lind Berardi, Associate Member and Peter Friedenber, Associate Member. Mr. Schneider opened the hearing at 7:30 p.m. by reading the public notice.

Mary DeMaio, owner, reported that she was proposing an addition to her single residence containing a two-car garage and Accessory Dwelling Unit (ADU) for her brother who was a disabled veteran.

The ADU will be located on the north side of the current structure, behind the proposed two car garage. The 872 square foot unit will have a kitchen, bedroom, bathroom, a living/dining area that opens to a deck located in the rear of the unit facing the backyard.

Mr. Schneider noted that the plans were illegible, and the setbacks could not be discerned. Mr. Tamkin asked for the dimensions of the side, front, and rear setbacks. Mr. DeMaio said the side setback was 16.4 feet; front setback was 26 feet and the rear setback was 24.6 feet. Mr. Schneider was concerned that he could not read the side setback on the plans. He was thinking that the side setback for the SRA District is 25 feet.

Comments received were:

- The Building Commissioner made no comment.
- The Engineering Department had no comment or objection.
- The Police Department had no objection.
- The Fire Department had no comment.
- The Planning Board noted that the unit was over the 850 square feet limit allowed for an ADU.
- The Health Department identified pest control measures and the need for an “Addition to a Home on a Septic” form be filled

There were no comments from the public.

Mr. Schneider reviewed the ADU requirements and the project’s compliance:

- the ADU must be subordinate to the primary residence –compliant;
- the house should maintain a single-family appearance –compliant;
- one unit must be occupied by the owner –compliant;
- no more than five unrelated people may occupy the structure – compliant;
- the occupant of the other unit must be a relative or caretaker of the owner - compliant;
- the ADU is be limited to 850 square feet in size – *proposal exceeds maximum size*;
- there must be parking available for both units - compliant;
- there must be two means of egress - compliant;

- there must be adequate water, sewer and drainage connection – *the Health Department has identified an issue regarding the septic system.*
- there must be an interior doorway connecting the ADU to the primary residence – *unclear*;
- all stairways must be enclosed – compliant.

Mr. DeMaio responded that the plans for the ADU would be revised to meet the 850 square feet limit; and that the septic system has the capacity for a four-bedroom home. The current house has three bedrooms and the new unit would constitute a fourth bedroom. Mr. Schneider stated that the septic system would need to satisfy the Health Department's requirements.

Mr. Schneider stated that a condition will be imposed that will require the owner, upon written request from the Building Commissioner, provide evidence that the ADU and principal dwelling are being occupied in accordance with the By-law. In the event the owner fails to provide such evidence to the Building Commissioner within thirty (30) days of a written request, the Building Commissioner may revoke the Special Permit for the ADU. Any such revocation may be appealed to the Board in accordance the procedures for the appeal of other decisions of the Building Commissioner.

Ms. Berardi asked where the units connected. Mr. DeMaio responded that there was a door in the garage. Mr. Schneider asked if the connection was directly to the principal dwelling unit or through the garage. The DeMaio's responded that the connection was through the garage. The Board was unclear if the garage connection constituted an interior doorway connecting with the principal unit as required under the By-Law.

Mr. Goldman felt that there were a number of questions that needed to be addressed through a revised plan and suggested a continuance.

Mr. Tamkin agreed that a revised plot plan with the setbacks clearly identified and in compliance with the SRA district needed to be provided. Mr. Tamkin was unclear whether a garage connection qualified as an interior door connecting the principal unit with the ADU as intended of the By-law.

The Board agreed that the pest control issues raised by the Health Department were outside the scope of this decision as it was a small residential addition in a residential area.

There was a discussion about the side setback for the SRA. Mr. Schneider noted that the property was an undersized lot created by a ZBA Variance in 1960.

Mr. Schneider agreed that the meeting be continued, and that the applicant provided a plot plan indicating the setbacks and the area of the ADU be revised not exceed 850 square feet.

Mr. Schneider asked the Board to reread the By-Law to determine if the connection through the garage constitutes an interior doorway connecting the units. After a discussion, the Board agreed that passing through the garage as proposed in this case would be considered an interior connection between the units.

The Board was supportive of the project but felt there was insufficient information to make a decision.

Mr. Tamkin moved to continue to the public hearing to December 17, 2021 at 7:30 p.m. Ms. Berardi seconded the motion. The motion was unanimously approved.

The meeting adjourned at 7:58 p.m.

December 17, 2020

The Board held this meeting virtually as allowed under “Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20.”

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Howard Goldman, Member. Also participating was Kathy Lind Berardi, Associate Member. Mr. Schneider opened the hearing at 7:35 p.m. by reading the public notice.

Mr. Schneider reported that the Board was in possession of a revised plot plan which showed a side setback of 16.5 feet. This meets the requirement of 15 feet for lots created prior to 1986. He apologized for the error in believing the side setback in the SRA district was 25 feet. He was reading the requirements for new lots. The new plans show that the size of the ADU was revised to an area of 845 square feet.

The Board previously agreed that the connection through the garage was considered an interior entry to the principal unit.

Mr. Schneider asked where the second entrance to the unit was. Ronald Jarek, architect, highlighted that the second egress was located in the rear of the unit. There is a sliding door that accesses the deck which has stairs to the ground.

Mr. DeMaio clarified that there is a separate hallway from the existing house to the ADU that connects the units, and that the hallway provides a direct connection in addition to the garage pass through.

Mr. Goldman asked where the door adjacent to the two-car garage led to. Mr. DeMaio said the door lead to the ADU and to the principal unit. Mr. Jarek noted that there are three ways to access the ADU.

Comments received:

- The Health Department preferred that the applicant connect to the public septic system. As part of the sewer connection a Septic Abandonment Form would be required.

There were no comments from the public.

Mr. Goldman moved to grant a Special Permit under Sections 3.15, and 7.5.2 of the By-Law to allow the addition of an Accessory Dwelling Unit at 926 Greendale Avenue conditioned on the following:

- that the owner provide evidence that the ADU and principal dwelling are being occupied in accordance with the By-law and upon any request by the Building Inspector;
- the Special Permit is not transferable; and
- the sewer requirements made by the Health Department be met.

Mr. Tamkin seconded the motion. The motion was unanimously approved.

The meeting adjourned at 7:47 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

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1. The Premises contain 21,779 square feet, improved with a single-family house, and are located in the Single Residential A District.
2. The Applicant and owner of the Premises is Mary DeMaio, who is renovating her existing house to add a two-car garage and additional rooms, including an Accessory Dwelling Unit (“ADU”). The ADU would contain 845 square feet.
3. Applicant’s brother, a disabled veteran, will be living in the ADU and the Applicant will occupy the principal unit.
4. The owner seeks a Special Permit under Section 3.15, 7.5.2 of the By-law for the ADU.
5. The ADU will have three main entrances/exits: one to the garage that is connected by a doorway, a second located in the rear of the unit through a sliding door that accesses a deck with stairs leading to the ground, and the third connects the units through a hallway from the existing house to the ADU.
6. There is no more than one ADU unit on the Premises and the proposed ADU is located in the single-family detached dwelling and not in an accessory building.
7. The proposed ADU is subordinate in size to the principal dwelling unit and is constructed to maintain the appearance and essential character of the single-family dwelling.
8. One of the units will be occupied by the owner and the other will be occupied by a member of the owner’s family.
9. The ADU will have no more than 850 square feet of living space and no more than one bedroom.
10. Parking is provided in the garage for the residents of both units with a minimum of one parking space per dwelling unit.
11. Adequate provisions have been made for the proper disposal of sewage, waste and drainage generated by the ADU.
12. The exterior entrances and access ways do not detract from the single-family appearance of the dwelling. There is an interior doorway providing access between each living unit as a means of access for purposes of emergency response. All

stairways to additional floors are enclosed within the exterior walls of the structure.

Decision:

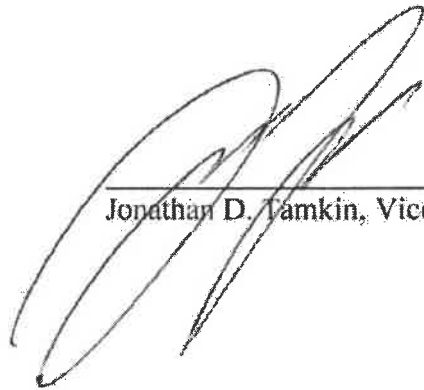
On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the applicant a Special Permit in accordance with Sections 3.15 and 7.5.2 to permit the construction of an ADU at 926 Greendale Avenue, Needham, MA in the Single Residential A District, and in accordance with the plans filed with the application, subject to the following conditions:

- a) Compliance with all conditions of Section 3.15 including, the requirement that the Applicant obtain a new occupancy permit three (3) years after issuance of the original occupancy permit and additional renewals of the occupancy permit after each succeeding three-year period;
- b) No occupancy permit shall be transferable upon a change of ownership or a change of the occupancy of the property;
- c) Upon written request from the Building Commissioner, the Applicant shall provide evidence that the ADU and principal dwelling are being occupied in accordance with the By-law. In the event the Applicant fails to provide such evidence to the Building Commissioner within thirty (30) days of a written request, the Building Commissioner may revoke the Special Permit for the ADU. Any such revocation may be appealed to the Board in accordance the procedures for the appeal of other decisions of the Building Commissioner; and
- d) The Applicant shall be in compliance with all requirements of the Health Department as to the need to connect the sewer lines to the town sewer system or improvements of the existing septic system,

SIGNATORY PAGE—926 GREENDALE AVENUE


Jon D. Schneider, Chair

SIGNATORY PAGE – 926 GREENDALE AVENUE



Jonathan D. Tamkin, Vice-Chair

SIGNATORY PAGE – 926 GREENDALE AVENUE



Howard S. Goldman, Member