

March 13, 2024

Theo Kindermans, Chair
Board of Appeals
via email: planningdivision@concordma.gov

RE: Letter in opposition to Application for Special Permit under §4.2.2.2 of the Zoning Bylaw at 262 Virginia Road

Dear Mr. Kindermans and Members of the Board:

We are writing in opposition to the Application of Michael Gresty for a Special Permit to construct a new separate dwelling unit on his property at 262 Virginia Road, for the purposes of providing an Additional Dwelling Unit (ADU). The reasons for our objections are noted below. We provide some background information for reference and context.

Background:

The existing house at 262 Virginia Road was constructed in 1985-86, and was part of a special permit for a common driveway (in conjunction with 244 and 260 Virginia Road) approved in 1985. We are the original and current owners of 260 Virginia Road. One of the purposes of a common driveway is to decrease the amount of pavement or impervious lot coverage; to reduce the number of curb cuts on public ways; and to minimize the impact on the wetlands, lessening the overall environmental impact (ZBL §5.3.18). Each of the three houses on the common driveway has its own frontage and minimum lot size for one-acre zoning. The utilities come down the edges of the common driveway (water along our lot at #260, and electricity along the lot owned by #244) and are designed to serve the three properties. The lot for 262 Virginia Road is a “J” shaped lot, and the existing main house is in the rear of their lot at a distance of 25’ from the rear boundary of our property.

The proposed ADU is in the front yard of #262, fully visible from the street, at a sideline distance of 27’ from our property, at the location on the property where the prior owners (until 2020) planted and maintained an orchard. The proposed ADU has a front-yard setback of 170’ and is situated approximately 200’ from the existing main house. If the ADU were to be approved, our property would then have the main house 25’ to the rear of our property, and the proposed ADU situated 27’ to the side of our property. Most, if not all of the trees in the orchard would have to be removed. We note that the main house is not visible from the street, and at a distance of 200’ from the proposed ADU, would maintain a level of privacy from the ADU that would be denied the abutters. In essence, the ADU has been designed and sited to provide maximum privacy for the main house, and would result in the maximum visual impact on the neighborhood.

Objections:

§4.2.2.2 states: “For the purpose of providing small additional dwelling units to rent in the Town that will not substantially alter the appearance of the Town or for the purpose of enabling owners of single-family dwellings larger than required for their present needs to share space and the burdens of homeownership, a building permit may be granted for one additional dwelling unit in a single-family dwelling or detached accessory structure.”

The applicant has applied for a variance to construct an ADU of 1,000 sf for a new detached dwelling unit approximately 200’ from the main house. I note that the main house has 3,456 sf of GFA (2,786 Living Area). The Board may consider this request “...provided that the desired relief

may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this Bylaw.” The Applicant’s justification for the variance request was insufficient: “We require the full 1,000 GSF allowed as we intend to provide accommodation for family members, including aging parents, who may stay for extended periods, and others, who may visit for shorter periods, and who would not be able to share comfortably the existing house.”¹ Couldn’t this be achieved with a 750-sf ADU with no basement, no attic, and fewer parking spaces?

While we recognize that the Applicant may wish to provide comfortable accommodations for visiting guests, the house as proposed (including a planned 2-car garage) is massive, would be a substantial detriment to the neighborhood, and doesn’t appear to even remotely fall within the intent and purpose of the ADU bylaw. There is nothing small about this proposed house. The application is to construct a new single-family dwelling, complete with a 1,000-sf house; a full unfinished basement and laundry of 1,050 sf with 9-10’ high ceilings and a separate exterior entrance and above-ground windows; a 709-sf attic, with two skylights and walk-up stairs; two parking spaces; and a 927-sf terrace. While not part of this ADU application, the design of the proposed structure is positioned to allow for a relatively easy and significant increase in living space—well more than double. An earlier version of the application included an attached garage of 790-sf, but that was deleted from the current application since the Applicant was advised that the garage would need to be detached so as not to be included in the allowed 1,000 sf of the variance. It is our understanding that it is the Applicant’s intent to apply for a separate building permit to construct the 2-car garage, which would provide a total of 4 parking spaces for the ADU. The ADU bylaw requires one parking space—why would 4 spaces be needed, including a large 2-car garage? The existing main house has a 2-car garage and paved parking for at least 4 additional cars.

There would be a separate curb cut, a new gravel driveway of approximately 170’ (which negates the benefit of the 1985 special permit for the common driveway), its own utilities and a septic system approved for 3 bedrooms. A 170’ gravel driveway is not a long-term solution in New England climate, leaving future paving a likelihood. There is nothing accessory about this proposal. The Applicant is essentially constructing a 3-story stand-alone home, with the potential of expansion of livable space if a special permit were to be granted. The Building Commissioner has indicated that if an ADU were constructed, then additional building permits could be requested for finishing both the basement and attic, without going through the special permit process. The Applicant has neither the frontage nor the acreage to subdivide the property through the Subdivision Control Law, but he is essentially and practically attempting to subvert that through the ADU bylaw.

There are known significant groundwater issues in the neighborhood, and the addition of a new single-family home would further impact the groundwater problems. We have lived in our home since 1986, and until 2021 we had no issues with water in our basement or garage. That has changed in the past three years, with water coming from the groundwater (seeping up in the center of the basement and the floor of our attached garage). Many other neighbors have had extensive flooding, necessitating the installation of sump pumps and assistance from the Fire Department with pumping, following storms. The environmental impact and the impact on the groundwater of the proposal should be evaluated and determined prior to the granting of any special or regular permit.

We are concerned about the potential future use of the property, perhaps as a Tourist Home (Airbnb or the like), in an otherwise owner-occupied residential neighborhood. While a Bed & Breakfast is not allowed in an ADU, it is our understanding that use of the new property as a Tourist

¹ Project Narrative for Accessory Dwelling Unit for 262 Virginia Road, January 22, 2024 (revised)

Home under §5.3.15, or other short-term rentals would be possible, but would require a special permit. We question how this serves the purposes of the ADU bylaw.

The proposed curb cut on Virginia Road is at the crest of the hill heading north/east, and would be virtually invisible to those vehicles traveling south/west on Virginia Road. We request that the Town's Engineering Department be asked to review the location of the curb cut for safety, to determine whether the proposed location is even feasible for a new driveway.

Summary:

In sum, we urge that you deny the application for the following reasons:

1. Negates the environmental benefit of the 1985 common driveway by adding a new 170' driveway, a new curb cut, and new utilities separate from the main house.
2. Does not meet either of the two purposes of §4.2.2.2 of the ZBL—does not provide a small unit to rent to increase the diversity of housing in the community; and does not share space with the existing owners, thereby decreasing the burdens of homeownership. This proposed structure is large. We question the need for a 1,050-sf basement and 709-sf attic, and how either of those is consistent with the bylaw.
3. The proposed ADU takes up all but 42' of the lot width, and at approximately 26' high creates a large massing effect, is fully visible from the street, replacing the existing open space/orchard, and is close to and visible to several abutters (while maintaining a distance of 200' from the main house).
4. The impact on the already challenged and significant groundwater issues for the neighbors is unknown, and should be evaluated and determined prior to the issuance of any special or building permit.
5. The proposed location of the curb cut in a blind area at the crest of a hill is potentially dangerous.

We request that the Board schedule a site visit(s) to the property, to fully understand the unusual configuration of both the lot and the location of the existing homes, and the impact of the proposal on the neighborhood.

Thank you for your consideration of our concerns.

Sincerely,



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Hagos Tekle