

March 27, 2024

Theo Kindermans, Chair

Zoning 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

I am writing in opposition of the proposed accessory dwelling unit (ADU) permit application at 262 Virginia Road. There are three primary points I wish to make in this letter. I will first raise specific points about the impact of the proposed unit on the immediate surroundings and the effects to the neighbors. Second, I will address the stated intended use for this project in applications submitted to the Town and why these do not agree with the owners' actions, plans and words. Finally, I will discuss the wisdom of this bylaw more broadly, both in letter and in spirit.

1. The immediate abutters and surrounding neighbors of 262 Virginia Road are uniformly opposed to the proposed ADU being considered. The construction of this structure, which is the size of a second home, will have material detrimental impacts to privacy, peace and property value. The neighboring homeowners face the possibility of having a newly raised rental property feet from their lot lines. They face the prospect of major flooding in their basements through diversion of groundwater flows. They face a future where short-term renters are coming and going, destroying the peace and adding nothing to the community.

These neighbors already deal with inconsiderate, intrusive and dangerous behavior and do so with impressive restraint. The imposition of a new two-story structure in an area which previously consisted of open woods, wetlands and the childhood home of Thoreau would be a bridge too far. This is being built literally in people's back yards.

2. The owners of 262 Virginia Road state in their application to the Town that the intended use is for elderly relatives. I believe this to be untrue. In the past, Mr. Gresty and Ms. Mladenova, husband and wife, have stated their desire to develop a short-term rental property or even form a condominium association on their property. It is not clear to me why they would need to justify the development of an ADU for

relatives when they can simply make no justification at all and go through the permitting process for a 750 square foot unit. This would seem ample size for any elderly couple. Of course, the answer is because 750 square feet is less valuable on an aggregate basis and when your intentions are to monetize, going bigger is better.

The practice of renting short-term is prohibited by law in Concord. The Town, however, has no means or plan of enforcing this prohibition. The building commissioner stated so himself. Why does an apartment for elderly relatives need a full basement? Why does it need a full second story that wisely avoids being counted toward the square footage? Why does it need parking for 4-6 cars? Why does it need its own garage which also wisely avoids being counted toward total square footage? Why does the unit need to be detached when it could easily be attached to the existing home and closer to other relatives? The answer is because this is intended to be used as a short-term rental and to monetize their lot at the expense of the neighborhood. I also note that town bylaw states that the owners must occupy the primary residence to legally rent an ADU. This fact particularly is germane to this situation. I hope that the Town will remind residents of this fact and have a plan for enforcement.

I spoke with the Building Commissioner who admitted that the Town cannot and will not enforce the short-term rental restriction. Commissioner Creedon cynically commented that “change can be scary.” He also shared that he is coaching the developer in this process to find the most expedient path to construction. Mr Creedon, who acknowledge he does not live in Concord, admitted that very few people “voted” to have this bylaw passed.

3. Town governments are funny. Weird laws can get passed with a shockingly small number of supporters. I do not know what the voting rolls looked like at the 2020 Town Meeting when this bylaw was passed, but I can guarantee it was an impressively small number of people with not much to do on a Monday night. It would be interesting to take a straw poll of town residents today to see how they feel now that the first tests are upon us. I’m particularly focused on the property taxpayers because that’s who fund the Town’s school systems and operations. That’s who just passed a generous tax increase to fund the building of a new middle school. These homeowners moved to Concord and pay Concord prices for an expectation of privacy, open space, a respect for the historic character of the town, and an expectation that it will remain.

Do Concord homeowners want to spend a tremendous amount of money on a house whose value could be decimated by a neighbor's choice to monetize their 10,000 sq foot lot? Do they want a rental property towering above their second story bedroom window? Why is it that some homeowners in some parts of town cannot do something as simple as replace a deteriorated driveway without a protracted battle, while in other parts of town you can build a short-term rental unit it out short-term and get help from Town employees along the way?

In researching this issue, I found a 2023 Concord Bridge article where Zoning Board of Appeals Chairman (ZBA) Theo Kindermans said he believes very strongly in this bylaw. Mr. Kindermans lives at the end of a dead-end street in the woods and is bordered by conservation property on all sides. Mr. Kindermans also did not respond to multiple genuine attempts to reach him during my research. Mr. Kindermans happens to work for a multinational development company. Mr. Kindermans owes the Town a thorough explanation of his hypocritical position on this issue, what he thinks the proper limitations should be on construction of ADUs and where there may be gaps in the existing bylaw.

I believe Concord residents have a right to hear promptly from the Planning Board, the ZBA and the Select Board in very clear terms what they have signed us up for. I believe no action should be take on any ADU permitting until this issue can be properly communicated to the residents at multiple well-advertised and well-attended public fora. I believe the Planning Board owes the Town a detailed study on the impact of their comical setback requirements followed by a period of open public comment. I believe the Select Board should put out a call for opinions for an against the ADU bylaw and synthesize those into a report which can be reviewed and vetted by a third party. The alternative is a protracted and costly legal and political path.

Sincerely,

Jon Grabenstatter
300 Virginia Road