

## Kim Johnson

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**From:** [REDACTED]  
**Sent:** Thursday, December 5, 2024 5:12 PM  
**To:** Kim Johnson; planningdivision@concordma.gov  
**Subject:** Letter in opposition to the proposed 262 Virginia Rd ADU (2nd attempt)

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Dear Mr Kindermans and the Zoning Board of Appeals,

My understanding is that you, as the Chair of the Zoning Board of Appeals in the Town of Concord, should receive comment from the abutters to the proposed Accessory Dwelling Unit (ADU) at 262 Virginia Road.

I live at 232 Virginia Road and, due to my proximity (within 300 feet of the aforementioned property), am an abutter to this proposed project. This letter is in response to the reapplication from Michael Gresty (and Irina Mladenova) for the construction of an ADU on their 262 Virginia Rd property. This proposal has been previously rejected by the ZBA due to the Concord's Zoning Bylaws (Section 6.2.3 and Table III). The applicants did not withdraw their initial application "without prejudice" which historically would mean an official legal appeal would be required. Due to the approval of new legislation by Governor Maura Healy in September of this year: The Remand Order of the Land Court, Gresty (and Mladenova) are requesting a new review for approval. The zoning bylaws of Concord still exist for the proposed location (previously rejected by the ZBA) and it is unclear whether the state legislation would supersede the new law.

The points of contention that I addressed earlier this year stand and I will repeat below in this updated letter. First, I would like to point out that the ability to build an ADU on one's property is not an absolute right to do so.

Mr Gresty's letter dated October 11, 2024 suggests several hardships regarding the location of a proposed ADU in close proximity to their house (which is, in fact, the intent of an ADU—that it shares a driveway/septic system).

Mr Gresty's list of "hardships" include the difficulty to locate an ADU near their existing main house siting wetland constraints, expensive excavation costs, the requirement to take down trees. Again, the ability to build an ADU is not an absolute right to do so.

He also notes the "poor condition" of the driveway. The driveway is, in fact, not in the horrible condition he suggests. Regardless, the resurfacing of a new driveway would be a shared expense and a fraction of the cost of an ADU.

The point of these hardships is, I suspect, that they do not wish to have the ADU close to their main house. They want to locate it as far from their house as possible so it can become a separate rentable dwelling from which to make money. Of course, they propose the ADU as mainly for "family members, including aging parents and close relatives who may stay for extended periods...hosting other guests who would not be able to share the existing house and **we envisage that we and possible future owners might also rent out the ADU**".

Their updated application has no significant changes from their initial application. They are still asking for a variance to expand the allowable square footage from 750 sq ft to 999.17 sq ft (for all intents and purposes: 1000 sq ft). Of note: the Healey legislation pertains to ADUs "under 900 Sq Ft". I am opposed to their requested sq ft variance for the following reasons:

Mr Gresty has proposed to the neighbors that this ADU is to house visiting relatives including "aging parents" (as articulated in a "Project Narrative" dated January 22, 2024) beyond what their four-bedroom house apparently accommodates. It is my contention that visiting guests including family members do not require the expanse of 1000 sq ft

including two bathrooms while still being able to enjoy the larger house on the same property. One could also argue that there is also not the need for two bedrooms—one bedroom and a sleeper sofa should be sufficient.

In addition, the proposed ADU has a full basement that is insulated and contains the laundry. Basement laundry is not ideal (much less intended) for aging parents. Including plumbing for laundry into the basement from the start, however, does allow for possible future bathroom/kitchen renovations in the basement.

Though in its current design, the basement is not “conditioned space”, this could easily be accomplished after the main construction is complete, thus doubling the livable space from the maximum 1000 sq ft allowed by the town for an ADU to nearly 2000 sq ft. They have reduced the ceiling height marginally to suggest it is below the allowable code ceiling height. Having said that, the basement has windows and an exterior access door. Both only needed if they plan ultimately to renovate the basement to livable space.

In addition, the attic space would allow for living space expansion, limited only by some of the roof line so it also could conceivably be finished after the fact to expand the size of the ADU beyond even 2000 sq ft. In fact, there are two skylights proposed in the attic beyond the one that will be exposed to the main floor. When asked about the need for skylights in the attic, which is designated for “storage”, Mr Gresty replied that it would allow light for seeing into the space and a decreased need to turn on lights. Motion sensing LED lights installed in both the basement and the attic would be less expensive and more effective for providing light in both a true basement and a storage attic. Again, I suspect ulterior motives.

Mr Gresty has told us that this additional renovation would not be allowed by the Town of Concord and assured me it would not happen. But Paul Creedon, the town’s building commissioner, has apparently stated that once an ADU has been completed, his office could not deny a permit to build out the basement to become livable space. I suspect Mr Gresty and Ms Mladenova know this and are disingenuous in their requested variance of only a 1000 sq ft ADU.

Mr Gresty said that the septic tank is the smallest they could propose and it is sized for 3 bedrooms, which could mean up to six people year-round. My understanding is that ADUs should be designed to use the existing or updated septic system. This plan requires a separate new septic system.

The water table in our area is also a concern. Climate change and the resulting wet weather (the current drought notwithstanding) has resulted in all of us in the neighborhood experiencing more yard lakes forming, as well as more water into our basements in spite of previous mitigation work. Displacing ~10,000 cubic feet of soil for the basement and more for the septic tank may result in groundwater shifts and compound problems for all the surrounding neighbors. At minimum, I request a hydrology evaluation and report to assure us that this new house would not impact our properties.

There are four proposed parking spots in the plans. One pair of spots, Mr Gresty stated, would become a detached garage. What is the need for four parking spots, much less a full garage, for visiting family members who would have at most two cars?

When asked about the heating/cooling plans for the structure, Mr Gresty explained that he thinks it will be a combination of heat pumps and propane. It is my understanding that the town voted to require all new construction be required to be net zero and no fossil fuels be utilized to power any new buildings. It is important to the town as well as to me that any new ADU be completely electrically powered from heating and cooling to stove and hot water.

Mr Gresty said that “eventually” they may rent the ADU for income. I suspect that financial payback for the hundreds of thousands of dollars they would spend on this project is ultimately what they are after. If they finish the basement (which has a proposed exterior entrance that could allow for two unrelated tenants: basement and main floor) and possibly the attic, suddenly this becomes housing for more than a few visiting relatives. Though the Town of Concord needs more affordable housing, I would need to be assured that this property would, in fact, be affordable. If the square footage increases up to 2400 as a separate dwelling with four or more bedrooms, several bathrooms, and four parking spaces, it will not be affordable. Further the intent of the new Healey legislation is to *provide more affordable housing ideally near public transportation*. This ADU would satisfy neither goal.

Finally, though I have been assured that this ADU property could not be severed from the main property and sold separately—breaking the intent of the ADU bylaw – it is my understanding that a legal loophole exists that would allow

the owner to sell the ADU, whether as a condominium or as a distinct property. Though I admit this is hearsay, it does concern me and I would want to be reassured that there are no such legal loopholes.

If Mr Gresty and Ms Mladenova had proposed an ADU which adhered to Concord's zoning bylaws and of no more than 750 sq ft of living space, never mind if it included a corresponding basement and attic which presumably could be finished after the initial structure was completed, we neighbors could not object in any impactful way. All of the concerns I listed above could be actualized albeit on a smaller scale. Therefore, I am submitting my objection to the requested variance of an increased size to the maximum of 1000 sq ft. The requested size variance, along with the potential for more than doubling the livable space, puts into question whether the spirit of the ADU bylaws is being strategically bypassed.

Please let the record show my concerns and objections.

Sincerely,  
Jill M Sandeen  
232 Virginia Rd