

December 9, 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 continued opposition of the revised application by Michael Gresty to construct an accessory dwelling unit at 262 Virginia Road. This application is an example of the ADU pathway being used to circumvent prohibitions on lot subdivision to construct what amounts to be a second home. Everything about this application seeks to maximize usable square footage and minimize impact on the primary dwelling. There is a long list of reasons why this application is in bad faith, inappropriate for the site and an abuse of the intent of the Bylaw. These reasons were articulated in eleven letters of opposition to the March 28, 2024 Application Materials by neighbors living in the vicinity of 262 Virginia Road. These points stand today as they did on March 28, and I invite you to review those letters.

Through six months of Board review, due consideration and legal analysis, it was determined that a dwelling cannot be situated at the top of the "J" (where the lot is "J" shaped, and the top is bordered by Virginia road) and the application was denied. The merits of the application were not considered. Public comment was not held. The board offered the applicant multiple chances to withdraw without prejudice, leaving open the option of revising the plans to meet the requirements of a non-conforming lot, namely that the dwelling be situated behind the point of maximum lot width, toward the bottom of the "J". The applicant declined and the application was denied.

Now the applicant seeks to leverage the forthcoming Affordable Homes Act (Chapter 150 of the Acts of 2024) to force reconsideration of the application. The Act amends the Zoning Act to allow ADUs up to 900 ft² by right. Because Concord already allows ADUs of 750 ft² by right, the only affect this piece of legislation has on Concord Zoning Bylaws is to increase the maximum square footage by right from 750 ft² to 900 ft². ADUs applied for under this act remain subject to local zoning regulations "including but not limited to, 310 CMR 15.00 et seq., if applicable, site plan review, regulations concerning dimensional setbacks and the bulk and height of structures..." The application was denied not because of a discretionary zoning review relevant to the Act, but because it is in violation of section 6.2.3 and 6.2.4 of the Zoning Bylaw that prohibits building a dwelling – any dwelling – at the proposed site. The homeowner remains free to submit a conforming ADU application but rather continues to pursue the second home strategy.

I thank you for your consideration and look forward to a speedy resolution.

Sincerely,

Jon Grabenstatter
300 Virginia Road
Concord, MA 01742

