



PLANNING DEPARTMENT REPORT

YARMOUTH, MAINE

Minor Site Plan

Accessory Dwelling Unit, 166 East Elm Street

Emily and Philip Bryson, Applicant

Map 48, Lot 8

Prepared by: Planning and Development Department Staff

Date: November 29, 2022

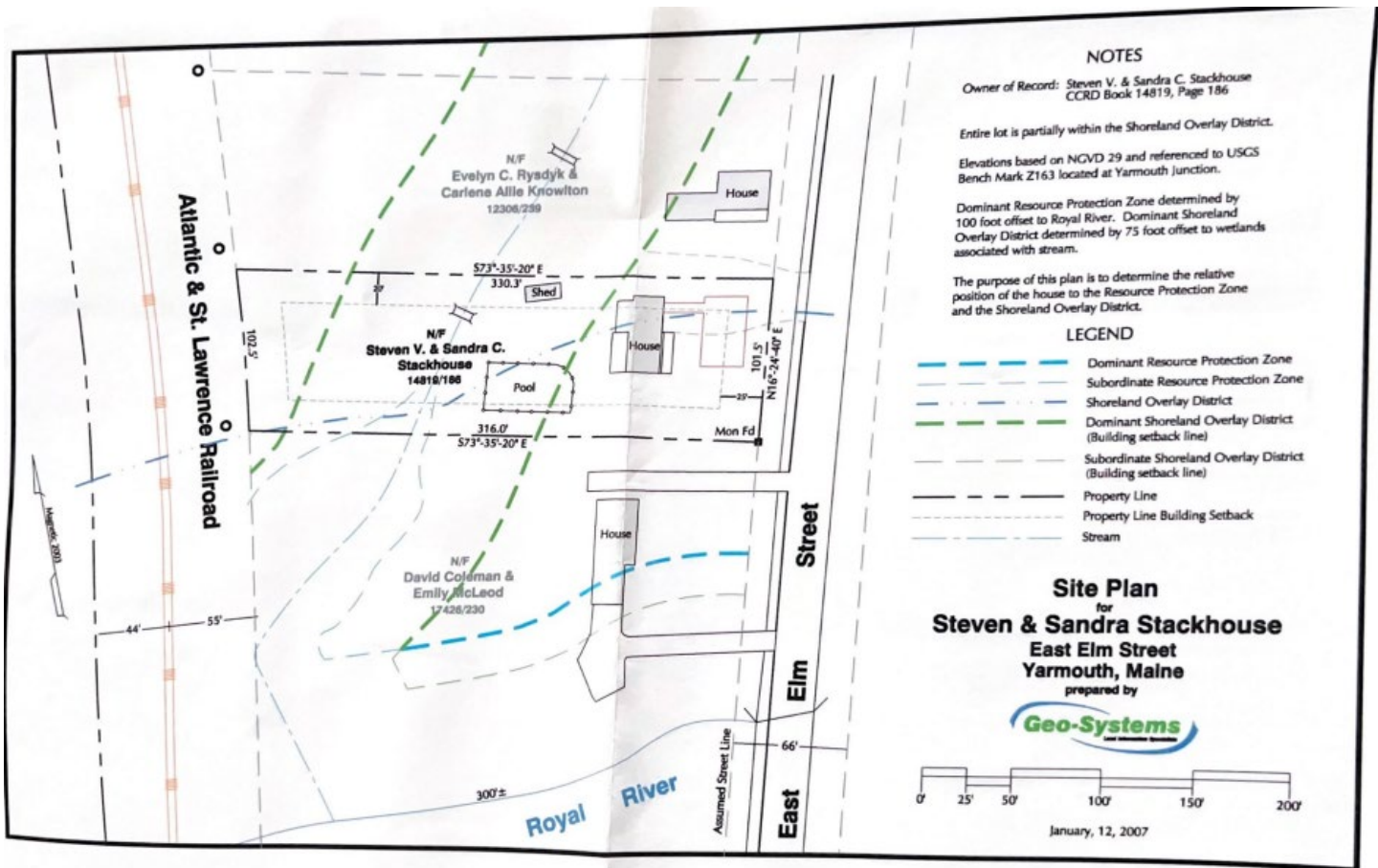
I. INTRODUCTION AND PROJECT DESCRIPTION

Emily and Philip Bryson propose to establish an accessory dwelling unit (ADU) on their property at 166 East Elm Street per Chapter 702, Site Plan Ordinance. The applicant proposes to convert the pre-existing two-story garage on the site into an ADU with two bedrooms, a bathroom, kitchen, an office, a living room, and a small balcony overlooking the driveway. The lot is also partially located within the Shoreland Overlay District; a separate application has been submitted for that review.



View of property and existing structure from East Elm Street (Google Streetview, 2019)

In the photo above, the primary dwelling unit is located behind the pre-existing four-car, two-story garage, which fronts East Elm Street.

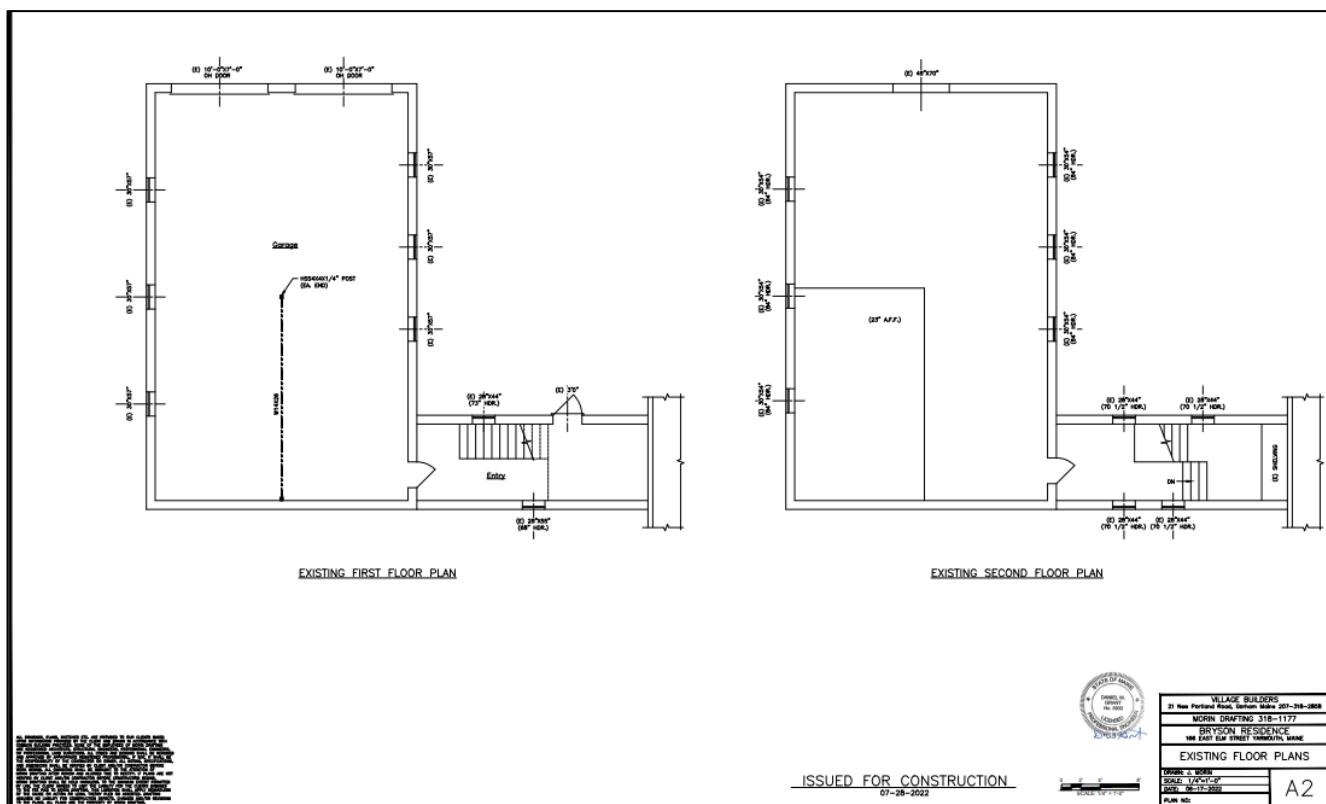


Site Plan for 166 East Elm Street

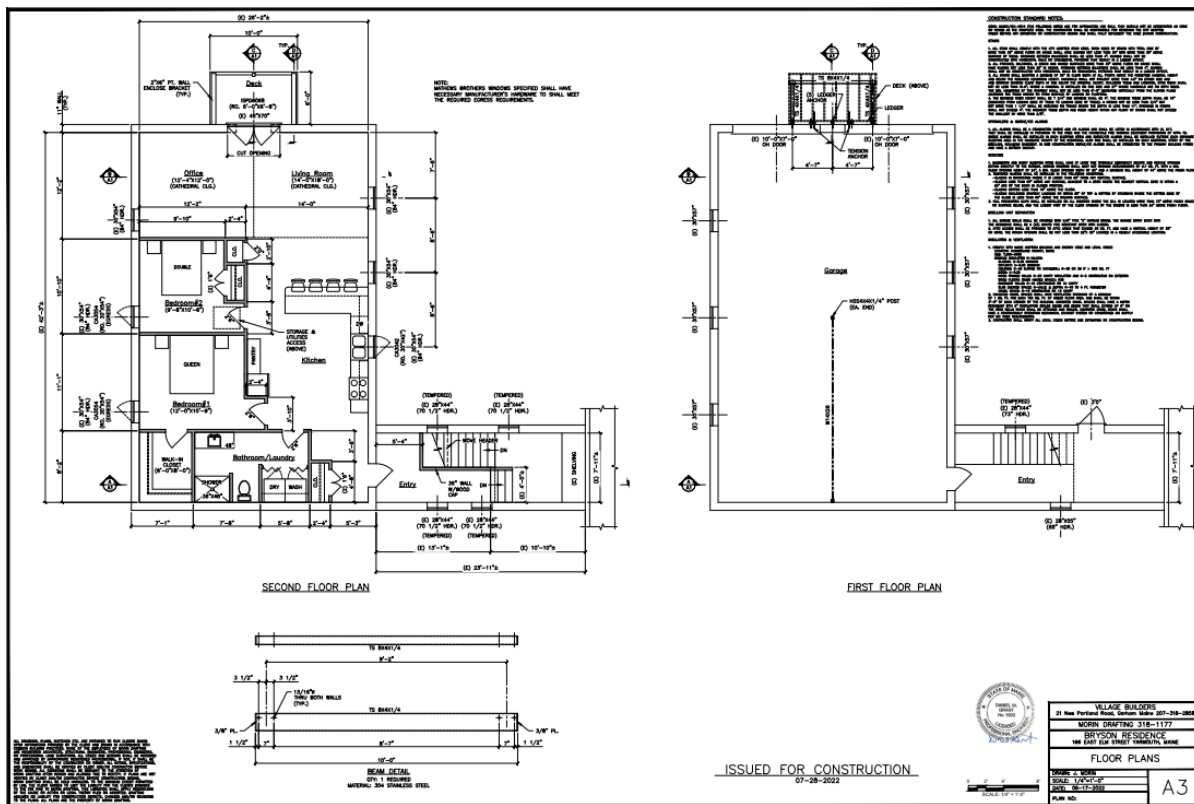
The pre-existing structures on the site are a single-family home from 1890 and an attached four-car, two-story garage with a gross area of 1,441 square feet that was constructed in 2007. The garage is connected to the principal dwelling by a breezeway, which was added in 2007. The existing lot is approximately 0.79 acres. Access for the ADU will remain from an existing side door that faces the interior courtyard of the property and will be used as a separate entrance for the ADU.



Aerial view of 166 East Elm Street (Town GIS)



Existing Floor Plans



Proposed Floor Plans

The ADU is reviewed as a Minor Site Plan Review per Chapter 702 Article 1.J.13 which outlines the requirements for ADUs.

II. PROJECT DATA

SUBJECT	DATA
Existing Zoning	Medium Density Residential, Shoreland Overlay District
Existing Use	Single-family home with attached garage
Proposed Use	Single-family home with attached garage and ADU
Parcel Size	0.79 acres

Uses in Vicinity: The surrounding neighborhood consists primarily of single-family homes originating from varying time periods. Immediately adjacent to 166 East Elm Street is a home of similar architecture that dates to the early 1800s, but across East Elm Street there is also a large subdivision from the 1990s and scattered vinyl-sided, single-family homes dating from the 1960s on 1 acre lots. The property is also in the vicinity of the Yarmouth Historical Center and Royal River Park. The rear of the property abuts the inactive St. Lawrence and Atlantic railroad corridor.

III. PUBLIC COMMENT

Notices of this public hearing were sent to 26 property owners in the vicinity (within 500 feet) of the proposed development. No public comment was received.

IV. DEVELOPMENT REVIEW

A. SITE PLAN STANDARDS (Chapter 702, Article 1.J.13, Accessory Dwelling Unit)

13. *Accessory Dwelling Unit: any request shall include a plot/site plan showing the following:*

- a. *Lot boundaries and dimensions at scale.*
- b. *Zoning district.*
- c. *Date of plan.*
- d. *Property owner with deed reference.*
- e. *Lot area.*
- f. *Location and setback of all buildings.*
- g. *Date of construction of single-family dwelling.*
- h. *Separate floor layout of all finished levels.*
- i. *All plumbing facilities, kind and location.*
- j. *Use of all rooms.*
- k. *All entrances/exits.*
- l. *All partitions, temporary or permanent.*
- m. *Location and type of all appliances.*
- n. *Rights of way, public and private*
- o. *All easements*
- p. *Street names*
- q. *Sewerage facilities*
- r. *Off-street parking spaces*

Town Comments: The applicant has provided a site plan dating from 2007, which was submitted when the garage was initially proposed as a new structure on the lot. The site plan shows items a – f, and the applicant will note on the drawing where the proposal is located. The applicant has provided additional construction drawings that show items h – K.

In permitting an ADU, the Planning Director and/or CEO shall find that:

- a. *Exterior design of the accessory unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.*

Town Comments: The applicant is proposing to convert unused space in the pre-existing garage into a two-bedroom apartment. The only alterations to the exterior will be new casement windows on the East Elm Street frontage to allow for proper egress, and the replacement and enlargement of an existing door to a French door with a small balcony on the southern side of the garage. The pre-existing garage structure was built in 2008 and is representative of traditional American vernacular styles.

- b. *The exterior design is in harmony with, and maintains the scale of the neighborhood.*

Town Comments: The proposal does not alter the exterior design of the existing home or garage beyond casement windows and a new door. Therefore, the proposal is in harmony with and maintains the scale of the neighborhood.

- c. *The accessory unit does not result in excessive noise, traffic or parking congestion.*

Town Comments: The proposed ADU will not create excessive noise, traffic or parking congestion. The garage space for at least 4 cars and the expectation is that the ADU occupant will only have one car and utilize the property's driveway.

- d. *The property fronts on a public water main and public sewer line each with the capacity to serve the additional accessory unit.*

Town Comments: The Yarmouth Water District Superintendent confirmed that there is capacity to serve the additional unit. The Superintendent requested additional information regarding whether the ADU need a sprinkler system, which the Fire Chief determined was not necessary. The applicant must still receive approval from the Yarmouth Water District that the existing water service line and meter size can support the existing home and ADU or adjust as necessary if the water use requirements exceed the current infrastructure limitations.

A condition of approval is to receive approval from the Yarmouth Water District regarding the required water infrastructure to serve the existing home and ADU. A second condition of approval is to receive approval from the Town Engineer for a new sewer connection if the existing sewer connection cannot support the addition of the ADU.

- e. *Major access stairs, deck entry doors, and major windows will generally be limited to the walls facing the primary residence. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory unit shall relate to the design of the primary residence and shall not visually dominate it or the surrounding properties.*

Town Comments: The ADU is in a pre-existing structure on the site with an existing door overlooking the driveway, which faces south with a view to the adjacent property. There are large deciduous trees along the southern property line, minimizing any detrimental impacts to privacy for the southern neighbors. There are already windows on the first and second stories of the west and eastern sides of the garage. These will be replaced to meet building code requirements. The 1,441 square foot garage is the larger structure on the property, and it does visually dominate the parcel. However, it is pre-existing and it is a hip and gable style building that fits in with the vernacular architecture.

- f. *The orientation and location of the buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including heritage or significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.*

Town Comments: There will be no change to the orientation of the building or trees on the property.

- g. *Building profiles, location and orientation relate to natural land forms.*

Town Comments: The property is flat and does not require the alteration of any natural land forms.

- h. *One parking space shall be provided on-site for each a studio and or one bedroom accessory unit. Two parking spaces shall be provided on site for each a two bedroom accessory unit. Parking of the accessory unit is in addition to the required parking for the primary residence. Required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a*

driveway. A tandem arrangement consists of one car behind the other. No more than two cars in tandem may be counted towards meeting the parking requirement.

Town Comments: The existing garage can accommodate four vehicles. Although the proposed unit has two bedrooms, the application states that it is for one occupant who will have one vehicle. Although no measurements have been provided, it appears that there is at least 1,500 square feet in the driveway, which is sufficient to accommodate another vehicle based on driveway standards (Article J. Section 3.f).

- i. A single-family dwelling exists on the lot or will be constructed in conjunction with the accessory unit. Only one ADU is permitted per lot.*

Town Comments: Only one accessory dwelling unit will be located on the property

- j. Accessory dwelling units are not eligible for variances to setbacks.*

Town Comments: The structure to be designated as the accessory dwelling unit is pre-existing and will not obtain any variances for the location.

- k. Before obtaining a building permit for an ADU the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:*
 - a. The accessory unit shall not be sold separately.*
 - b. The unit is restricted to the approved size.*
 - c. The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.*
 - d. The above declarations are binding upon any successor in ownership of the property;*
 - e. The deed restrictions shall lapse upon removal of the accessory unit.*

Town Comments: A deed restriction has already been filed in the Cumberland County Registry of Deeds at Book 39752 Page 275 that meets the requirements of this standard.

- l. Units within an Accessory Structure shall not exceed 900 square feet. If an ADU occupies an entire single floor, the Planning Department may allow for an increase in the allowed size of the ADU in order to efficiently use all of the floor area, so long as all other standards of this section are met.*

Town Comments: The applicant has indicated that the floor area of the unit is greater than 900 square feet, though this is due to the ADU occupying the entire second floor of the garage. The applicant has listed the footprint of the proposed unit as 1,232 square feet. Town Staff calculated the square footage at 1,105 square feet based on the measurements provided in the floor plan. The difference is likely due to the inclusion on the entry, which is not typically counted toward living area. Livable area does not include closets, stairwells, shafts, or other non-habitable spaces. In spaces with sloped ceilings, habitable space should only be calculated for the area having a ceiling height of five feet or greater in accordance with industry standards including 2015 International Residential Code (IRC)/ R304.3 *Height effect on room area*. It is likely that the ADU is even less than 1,105 square feet if the closets are removed from the living area calculation.

Although the ADU is greater than 900 square feet it, this standard allows the Planning Department to allow an increase in the allowed size of the ADU to efficiently use all of the floor area. All other standards of the section are met, so the Planning Department has determined that the size of the ADU meets the intention of the standard.

- m. An ADU may have no more than two (2) bedrooms.*

Town Comments: The structure proposed to be designated as an accessory dwelling unit has two bedrooms.

- n. The water and sewage facilities shall meet all existing laws and codes.*

Town Comments: The Yarmouth Water District Superintendent confirmed that there is capacity to serve the additional unit. The Superintendent requested additional information regarding whether the ADU need a sprinkler system, which the Fire Chief determined was not necessary. The applicant must still receive approval from the Yarmouth Water District that the existing water service line and meter size can support the existing home and ADU or adjust as necessary if the water use requirements exceed the current infrastructure limitations.

A condition of approval is to receive approval from the Yarmouth Water District regarding the required water infrastructure to serve the existing home and ADU. A second condition of approval is to receive approval from the Town Engineer for a new sewer connection if the existing sewer connection cannot support the addition of the ADU.

- o. Approval of an accessory apartment shall be conditional on obtaining applicable building, plumbing, electrical and any other necessary municipal permits.*

Town Comments: The Director of Public Works noted that as it is unclear if the project will require separate water and sewer connections. If the project requires work within the street right of way, a Right of Way permit will be needed. Obtaining all other permits is also a condition of approval.

- p. The Fire Chief must review and sign off on the application.*

Town Comments: The Fire Chief reviewed the application and noted that the ADU meets the exceptions for Zoning Ordinance Chapter 317 Section 3.2.1.2, which states that,

“All additions to existing buildings or structures along with the existing buildings or structures must be sprinkled when the cumulative area of the entire building, including the addition(s), equals or exceeds 4,000 square feet in area.

Exception 1: If the cumulative area or volume of any addition or additions approved and constructed after April 19, 2001 is less than 25% of the building area or volume existing on or before April 19, 2001 a sprinkler system shall not be required per the requirements of this ordinance.

Exception 2: Existing One-Family Dwellings, existing One-Family Dwellings with an attached accessory dwelling unit, and existing Two-Family Dwellings shall only be required by 3.2.1.2 be sprinklered when fifty percent (50%) or more of the interior wall finish material is removed as

part of the addition project. For the purposes of this section an addition project includes all building work performed in a five (5) year period.”

- q. Unless part of the design of an existing single family dwelling the dwelling(s) shall have only one (1) front entrance and all other entrances shall be on the side or in the rear of the dwelling. A front entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units is permitted. Outside stairways (either open or enclosed), that service an Accessory Dwelling Units on upper stories are not permitted.*

Town Comments: The proposed ADU is in an attached garage structure, which is accessed by an existing door in a breezeway that faces the inner courtyard. The application states that this will be used as a separate entrance for the ADU occupant. Construction drawings provided show that the unit can also be accessed from inside the garage.

- r. For an ADU located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single family dwelling, but any exterior modifications should be consistent with the architectural style of that structure unless the building is upgraded per the requirement of new structures or unless the new structure is designed in a traditional New England form such as a barn.*

Town Comments: The proposed ADU is located within an existing garage and does not approximate the exterior features of a single-family dwelling. The only changes to the exterior include the replacement of two windows facing the road to allow for code / emergency exit needs from the bedroom, replacement of the door on second floor, and the addition of a balcony on the second floor. The front of the garage will also have small balcony which will match the aesthetics of the house.

- s. An existing single family dwelling that is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements may be expanded to incorporate an Accessory Apartment subject to the requirements of Chapter 701 of the Yarmouth Code Article III for the expansion of other non-conforming single family dwellings.*

Town Comments: The accessory dwelling unit is proposed to be located within the existing attached garage. According to the site plan from 2007, the garage appears to be non-conforming to the front setback, but the structure is not being expanded in any capacity to accommodate the ADU.

- t. ADU's may be permitted on back lots.*

Town Comments: The property is not a back lot. This standard is not applicable.

- u. ADU's are not permitted on a lot with a non-conforming use.*

Town Comments: The existing single-family use is a conforming use for a lot within the medium density residential (MDR) district.

- v. ADU's are not permitted on a lot with mixed uses.*

Town Comments: The lot does not have mixed uses. This standard is not applicable.

- w. *When an owner wishes to eliminate the accessory apartment proof of the removal of the second kitchen and the restoration of the apartment to its status before the conversion shall be submitted to the satisfaction of the Planning Department. The owner shall record a Release of the Declaration of Restrictions on the Land after inspection and confirmation by the Code Enforcement Officer.*

Town Comments: This standard will be included as a condition of approval.

V. ADMINISTRATIVE APPROVAL

Based on the record, the Planning and Development staff believe that the Minor Site Plan Approval for an ADU at 166 East Elm Street is consistent with the standards of approval subject to the following conditions:

1. The applicant shall approval from the Yarmouth Water District that the existing water infrastructure can serve the existing home and ADU. If the existing infrastructure cannot serve the addition of the ADU to the property, the applicant shall make the necessary upgrades as directed by the Yarmouth Water District.
2. The applicant shall receive a Sewer Connection Permit if the existing sewer infrastructure cannot serve the addition of the ADU to the property. The applicant shall make the necessary upgrades as directed by the Town Engineer.
3. If any work in required within the right of way, a Right of Way Permit must be received. All paving work is subject to the Town of Yarmouth specifications, inspections, and warrantee requirements. There is no excavation work allowed within the right of way between November 15th and May 1st.
4. Proof of primary residence to include;
 - a. Driver's License or other recognized form of state or federal ID
 - b. a copy of a utility bill.

Attachments

1. Staff Comment – Eric Gagnon, Yarmouth Water District – email 10/24/22
2. Staff Comment – Steve Johnson, Town Engineer – memo 10/24/22
3. Staff Comment – Michael Robitaille, Yarmouth Fire Department – email 10/27/22
4. Staff Comment – Erik Street, DPW Director – memo 10/21/22

From: [Eric Gagnon](#)
To: [Nicholas Ciarimboli](#); emily.p.bryson@gmail.com
Cc: [Wendy Simmons](#); [Tim Herrick](#)
Subject: Re: Request for Comment - 166 East Elm St. - DUE 11/4
Date: Monday, October 24, 2022 11:28:23 AM
Attachments: [YWD Service Application 2022.pdf](#)

Hi Nick and Emily,

The Yarmouth Water District can serve the referenced project. We will need more information to determine how it can be done. Please see the attached service application that must be completed and returned to us. The completed application must include the peak flow of any life safety sprinkler systems and list all of the water fixtures downstream of the meter (new and existing). This will determine if the current water service line and meter size are adequate to serve the existing home and the proposed ADU. There are options if the new water use requirements cannot be met by the existing service line and meter. These options are dependent on the current infrastructure limitations and the required water use.

Please let me know if you have any questions.

Eric Gagnon
Superintendent
Yarmouth Water District

Our current work schedule is Monday through Thursday 7 am to 5 pm and I typically do not check my emails regularly outside of those hours.

207.846.5821 phone

207.846.1240 fax

<http://YarmouthWaterDistrict.org/>

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On Thu, Oct 20, 2022 at 10:29 AM Wendy Simmons <WSimmons@yarmouth.me.us> wrote:

For your review.

Thanks. W

Wendy L. Simmons, SHRM-CP (she, her, hers)

Administrative Assistant

Planning, Code Enforcement and Economic Development

Town of Yarmouth

200 Main St.

Submit Comments to Nick Ciarimboli by 11/4/22

TOWN OF YARMOUTH

200 Main Street

Yarmouth, Maine 04096

(207)846-2401

Fax: (207)846-2438

NOTICE OF PLANNING DEPARTMENT FILING & REQUEST FOR COMMENT

Date Rec'd.: 10/18/22

Agenda Date: N/A - Staff Review

Project Description: Accessory Dwelling Unit

Project Location: 166 East Elm St.

Applicant: Emily and Philip Bryson

Agent/Contact: Emily Bryson - emily.p.bryson@gmail.com

Project Description:

ADU upstairs in existing garage.

*No Comments
10-24-2022*

- ☐ Review For Completeness/Checklist
- ☐ Respond To Applicant Re: Completeness
- ☐ Staff Input/Request Sent:

1. Director of Public Works (full size)
2. **Town Engineer (full size)**
3. Fire Chief (pdf)
4. Police Chief (pdf)
5. Director of Community Svcs (pdf)
6. Yarmouth Water District (pdf)
7. Code Enforcement Officer (full size)
8. Town Manager (pdf)
9. Harbormaster (pdf)
10. School District (pdf)
11. Tree Committee (pdf)
12. Economic Development Director (pdf)
13. Planning Director (full size)
14. Assessor - Subdivision Only (pdf)
15. Bike & Ped Committee (pdf)
16. Parks & Lands Committee (pdf)
17. Historic Preservation Committee (pdf)
18. Traffic Peer Review - TYLin (pdf)

Date Completed:

10/19/22

10/19/22

10/20/22

X

X

X

X

X

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X

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X

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X

X

☐ Notice Letters Created/Sent

☐ Agenda To PB

☐ Agenda Posting:

1. Forecaster

2. Website

3. Bulletin Board

☐ Copy Of Findings And Decision In File

Juliana Dubovsky

From: Nicholas Ciarimboli
Sent: Friday, October 28, 2022 12:19 PM
To: Juliana Dubovsky
Cc: Erin Zwirko
Subject: FW: Request for Comment - 166 East Elm St. - DUE 11/4

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: FYI, Planning Board

FYI

From: Eric Gagnon <egagnon@yarmouthwaterdistrict.org>
Sent: Thursday, October 27, 2022 4:38 PM
To: Mike Robitaille <MRobitaille@Yarmouth.me.us>
Cc: Nicholas Ciarimboli <NCiarimboli@yarmouth.me.us>
Subject: Re: Request for Comment - 166 East Elm St. - DUE 11/4

Thanks all!!

Eric Gagnon
Superintendent
Yarmouth Water District

Our current work schedule is Monday through Thursday 7 am to 5 pm and I typically do not check my emails regularly outside of those hours.

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On Thu, Oct 27, 2022 at 4:24 PM Mike Robitaille <MRobitaille@yarmouth.me.us> wrote:

It appears this is an ADU above a garage space. As our Ordinance reads unless it would get a sprinkler if greater than 4000 square feet of total space. Unless 50% or more of interior walls are removed or its greater than 25% of total space and greater than 4000 square.

I don't think this gets a sprinkler...another ADU that wont because its an addition to an existing building. Had this been a stand alone building it would have got a sprinkler no matter the size....

Michael S. Robitaille

Chief of Department

Yarmouth Fire Rescue

From: Nicholas Ciarimboli <NCiarimboli@yarmouth.me.us>
Sent: Thursday, October 27, 2022 3:16 PM
To: Mike Robitaille <MRobitaille@Yarmouth.me.us>
Cc: Eric Gagnon <egagnon@yarmouthwaterdistrict.org>
Subject: FW: Request for Comment - 166 East Elm St. - DUE 11/4

Chief,

Thoughts on this one? My first take is also 'no sprinkles' as it appears to be an interior fit-up of an existing space only. As long as they stay below the 50% interior finish removal threshold that is.

V/R

Nick

From: Eric Gagnon <egagnon@yarmouthwaterdistrict.org>
Sent: Thursday, October 27, 2022 1:56 PM
To: Nicholas Ciarimboli <NCiarimboli@yarmouth.me.us>
Cc: Tim Herrick <therrick@yarmouthwaterdistrict.org>
Subject: Re: Request for Comment - 166 East Elm St. - DUE 11/4

Nick, does this project require a sprinkler system? The applicant said it was not applicable on the application they completed and I just want to be sure that is the case?

Eric Gagnon
Superintendent
Yarmouth Water District

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On Mon, Oct 24, 2022 at 11:27 AM Eric Gagnon <egagnon@yarmouthwaterdistrict.org> wrote:

Hi Nick and Emily,

The Yarmouth Water District can serve the referenced project. We will need more information to determine how it can be done. Please see the attached service application that must be completed and returned to us. The completed application must include the peak flow of any life safety sprinkler systems and list all of the water fixtures downstream of the meter (new and existing). This will determine if the current water service line and meter size are adequate to serve the existing home and the proposed ADU. There are options if the new water use requirements cannot be met by the existing service line and meter. These options are dependent on the current infrastructure limitations and the required water use.

Please let me know if you have any questions.

Eric Gagnon
Superintendent
Yarmouth Water District

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For your review.

Thanks. W

Wendy L. Simmons, SHRM-CP (she, her, hers)

Administrative Assistant

Planning, Code Enforcement and Economic Development

Town of Yarmouth

200 Main St.

Yarmouth, ME 04096

Phone: 207.846.2401

Fax: 207.846.2438


www.yarmouth.me.us

Town of Yarmouth ME

Director of Public Works

MEMORANDUM

To: Nick Ciarimboli – Code Enforcement / Planning Assistant

From: Erik S. Street, Director of Public Works 

CC: Steve Johnson, PE, Town Engineer, Wendy Simmons, Karen Stover

Date: 10-21-22

Re: 166 E. Elm Street - ADU

After reviewing the project, I have the following comments.

1. It is not clear what the project will require a separate water & sewer connection. Applicant should be advised that there can be no excavation in the street right of way between November 15th and May 1st.
2. If the project does require work within the street right of way, a right of way permit will be required. All paving work would be subject to Town specifications, inspections, and warrantee requirements.

If you have any questions, please let me know.

Thank you