

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
(781) 545-8716



TOWN OF SCITUATE ZONING BOARD OF APPEALS Meeting Minutes

September 21, 2023

Present: George Xixis, Chair, Christopher Carchia, Greg Fleming, Heath Fahle
Also present: Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a hybrid public hearing in the Select Board's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Highway and was also accessible via Zoom on **Thursday, September 21, 2023 at 7:00 P.M.** to consider the following requests:

First Application: (*continued from August 21, 2023*) **D. David Mendes, 37 Hawley Road, Scituate, MA 02066** requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.1 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the remodel of a preexisting, nonconforming dwelling on a preexisting nonconforming lot located at **38 Hawley Road, Scituate, MA 02066 (Assessor's Map 34, Block 26, Parcel 19).**

Mr. Mendes -- introduced himself and presented his reasons for seeking approval for this appeal.

Mr. Xixis -- briefly described the details of the property. The lot is nonconforming with respect to area, frontage and width. The dwelling is also nonconforming. Mr. Mendes proposes to remodel the existing fire damaged structure.

Mr. Vogel -- provided background for creation of Section 810.1 of the Scituate Zoning Bylaws and its applicability to this appeal.

Meeting was opened for public comment --

Mr. Chris Gardner (abutter @ 41 Hawley Road, Scituate, MA 02066) -- stated his support for the remodel of the property and Mr. Mendes.

Ms. Joanna Southworth (abutter @ 48 Hawley Road, Scituate, MA 02066) -- stated her support for the remodel of the property and Mr. Mendes.

Ms. Joan Giacomozzi (abutter @ 37 Irving Road, Scituate, MA 02066) -- stated her support for the remodel of the property and Mr. Mendes.

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Mr. Ben Giacomozzi (abutter @ 37 Irving Road, Scituate, MA 02066) – (on-line) stated his support for the remodel of the property and Mr. Mendes.

Mr. Fleming – made a motion on the application of D. David Mendes on 37 Hawley Road, Scituate, MA requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.1 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the remodel of a preexisting, nonconforming dwelling on a preexisting nonconforming lot located at 38 Hawley Road, Scituate, MA pursuant to the plan by Ross Engineering Company dated November 2, 2022 and that the Board find that the proposed remodel introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. The motion was seconded by Mr. Carchia, all in favor, unanimous.

Second Application: Erin Devine, 25 Ocean Avenue, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2A of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow for the construction of an addition at the rear of a preexisting, nonconforming, single-family dwelling on a preexisting nonconforming lot at **25 Ocean Ave, Scituate, MA 02066 (Assessor's Map 08, Block 02, Parcel 01)** and increasing the gross floor area by more than 20%. **Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061.**

Mr. Mirabito – presented and reviewed the application status. A proposed addition is to be constructed on the rear portion of the house, which will increase the Gross Floor Area to 61.9% and the non-conforming setback on the right side of the dwelling will be made more conforming. It was also stated that a storm water permit will not be necessary.

The Board – questioned how the right yard setback would be improved.

Mr. Mirabito – stated that the addition setback will be at 5.5 feet, but that there will be no change to the overall setback.

Mr. Vogel – no additional comments offered.

Meeting was opened for public comment – no public comments.

Mr. Xixis -- made a motion on the application of Erin Devine of 25 Ocean Avenue, Scituate, MA requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2A of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow for the construction of an addition at the rear of a preexisting, nonconforming, single-family dwelling on a preexisting nonconforming lot at 25 Ocean Ave, Scituate, MA 02066 pursuant to the plan by Ross Engineering Company dated July 20, 2023 and that the Board find that the proposed construction of an addition introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. The motion was seconded by Mr. Carchia, all in favor, unanimous.

Third Application: Beach Boy Realty Trust, 117 Lyman Road, Brookline, MA 02467 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 810.2 and 470.6F of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow to raze and rebuild a preexisting, nonconforming, single-family home at **1 Tilden Avenue, Scituate, MA 02066 (Map 5, Block, 3, Parcel 70). Representing the Applicant – Gregory J. Morse, P.E., Morse Engineering Co., Inc., 10 New Driftway, Suite 303, Scituate, MA. 02066.**

Mr. Morse – presented and reviewed the application status. It is proposed that a nonconforming preexisting single-family dwelling, located on a nonconforming/noncompliant (FEMA) lot be razed and the existing tight tank removed. A new single-family dwelling will be constructed on pilings to be FEMA compliant and parking and a 1- bedroom septic system will be addressed below the raised structure. The footprint of the new raised structure will correct the encroachment on the backyard and increase side yard setbacks on both sides.

Mr. Vogel – offered that the exterior walls of the new structure will need to be fire rated and that the glazing as a percentage of wall area will be limited, given that the structure walls will be less than 5'- 0" from the property line.

Meeting was opened for public comment –

Mr. Bill Graham (abutter @ 14 Tilden Avenue, Scituate, MA 02066) – Questioned the size of the septic system and the current dwelling's seasonal restriction.

Mr. Morse – responded that the new system will be a 1-bedroom septic system and that the new system will relieve the seasonality restriction.

Mr. Graham – also questioned the elevation of the new dwelling.

The Board – the dwelling will be height conforming in accordance with current Zoning Bylaw.

Numerous additional abutters (**Ms. Mary O'Meara of 143 Glades Road; Ms. Heather Sprague of 139 Glades Road; Mr. Bill Murphy of 145 RR Glades Road**) made comments/had questions regarding the impact the installation of pilings will have on their and others' properties and stressed that the neighborhood is tight for construction activities.

Board/Mr. Vogel/Mr. Morse – responded to abutters' questions and concerns, citing the professional behavior of the contractor and the Zoning and Building Code requirements that will be met.

Mr. Xixis -- made a motion on the application of Beach Boy Realty Trust, 117 Lyman Road, Brookline, MA 02467 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow a raze and rebuild of a preexisting, nonconforming, single-family home at 1 Tilden Avenue, Scituate, MA 02066 pursuant to the plan by Morse Engineering Co., Inc. and that the Board find that the proposed raze and reconstruct introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. The motion was seconded by Mr. Fleming, all in favor, unanimous.

Fourth Application: Dana and Christy Clark, 14 Beaver Dam Road, Scituate, MA 02066 request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow for the construction of an addition to a preexisting, nonconforming single-family dwelling on a preexisting nonconforming lot at **14 Beaver Dam Road, Scituate, MA 02066 (Map 45, Block 12, Parcel 7)**. **Representing the Applicant – Ms. Heidi Condon, HC Design, 146 Front Street, Scituate, MA 02066.**

Mr. Clark (homeowner) -- introduced himself.

Ms. Condon – presented and reviewed the application status. The addition to the nonconforming dwelling will increase the dwelling size by over 20%, but it will not increase nonconformities. The addition will be on 2 levels, with the new roof lines at or below the existing.

Meeting was opened for public comment –

Ms. Linda Ferguson (abutter @ Inn at Scituate Harbor, 7 Beaver Dam Road, Scituate, MA 02066) – remarked that contractors consistently parked in the Inn's lot during a recent build in the neighborhood. Ms. Ferguson wanted the Board, the architect and the homeowner that the Inn's lot is not public parking.

Ms. Condon – responding to Ms. Ferguson indicated that there is ample space on site for materials and movement and that she would counsel contractors on the build not to park in the Inn's lot.

Mr. Fleming – made a motion on the application of Dana and Christy Clark, 14 Beaver Dam Road, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the construction of an addition to a preexisting, nonconforming, single-family dwelling on a preexisting nonconforming lot at 14 Beaver Dam Road, Scituate, MA 02066 pursuant to the plan presented by Ms. Condon dated July 26, 2023 and that the Board find that the proposed construction introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. Motion seconded by Mr. Xixis, all in favor, unanimous.

Fifth Application: Michael and Clair Wankum, 16 Chet Way, Scituate, MA 02066 request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the construction of an addition to a pre-existing, non-conforming, single-family dwelling at **120 Clapp Road, Scituate, MA 02066 (Map 18, Block 1, Parcel 12)**. **Representing the Applicant – Gregory J. Morse, P.E., Morse Engineering Co., Inc., 10 New Driftway, Suite 303, Scituate, MA. 02066.**

Mr. Morse – presented and reviewed the application status. The existing home, built in 1774, complies with left, right and rear setbacks. The front setback is nonconforming and will remain so as the existing structure is intended for renovation. New construction includes a two-story addition with porch. The proposed addition and porch will increase the Gross Floor Area by 70.5% and complies with all setbacks.

Mr. Vogel – raised the importance of septic review, given the proposed additional bedrooms.

Meeting was opened for public comment – no public comments.

Mr. Xixis – made a motion on the application of Michael and Clair Wankum, 16 Chet Way, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the construction of an addition to a preexisting, nonconforming, single-family dwelling at 120 Clapp Road, Scituate, MA 02066 pursuant to the plans prepared by Morse Engineering Co., Inc. and dated August 11, 2023 and that the Board find that the proposed construction introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. Motion seconded by Mr. Carchia, all in favor, unanimous.

Sixth Application: Leo McDonough, 16 Salt Meadow Lane, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 420 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the construction of a private garage for more than three vehicles on a vacant lot at **22 Salt Meadow Lane, Scituate, MA 02066 (Map 57, Block 2, Parcel 5C)**. **Representing the Applicant – Mr. Jeffrey A. De Lisi of the law firm Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066 and Mr. Paul J. Mirabito of Ross Engineering Company, 683 Main Street, Norwell, MA 02061.**

Mr. De Lisi – presented and reviewed the application status. The Applicant seeks to construct a 4 vehicle garage on a vacant lot at 22 Salt Meadow Lane. Relief being sought by the Applicant addresses the size of the garage. Per the Zoning Bylaws Table of Use Regulations, the construction of private garages for more than 3 automobiles requires a Special Permit from the Zoning Board of Appeals.

The proposed garage will be 34 feet x 40 feet and will be constructed to meet all setback and height requirements for the R-1 zone in which the property is located. A shed which is located on the property will be razed and the existing entrance to the property will remain as currently in use, which will be to the left of the proposed structure. The Applicant also owns 16 Salt Meadow Lane, but does not intend to merge the two properties.

Meeting was opened for public comment --

Ms. Kathleen Palmeri (abutter @ 15 Salt Meadow Lane, Scituate, MA 02066) – inquired as to whether or not the Board had reviewed Conservation Commission findings for the proposed project.

Mr. Xixis – stated that the proposed project is not located in that portion of the lot that is subject to Conservation Commission scrutiny.

Mr. Palmeri (15 Salt Meadow Lane, Scituate, MA 02066) -- shared concern over the property's (22 Salt Meadow Lane) appearance and perceived danger to children who might wander onto the property.

Mr. Stephen DeMare (abutter @ 7 Salt Meadow Lane, Scituate, MA 02066) – (on-line) questioned whether or not it might be possible for this garage to evolve into a commercial use facility.

Mr. Xixis – responded to Mr. DeMare by stating that the application before the Board is for a private garage in a R-1 zoned neighborhood.

The Board – discussed attaching Special Conditions to their Decision, in deference to the voiced neighborhood concerns and decided to approve the application on the condition that the Applicant create a vegetated buffer, for both safety and visual appeal. Additionally, the vegetated buffer will not be created so as to obstruct the documented 15 foot drainage easement and private way to the river.

Mr. Xixis – made a motion on the application of Leo McDonough, 16 Salt Meadow Lane, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 420.1.H and 950.3 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow the construction of a private garage for more than three automobiles at 22 Salt Meadow Lane, Scituate, MA 02066 pursuant to the plan by Grady Consulting dated August 10, 2023 wherein the proposed private garage is 34 feet x 40 feet and wherein the Applicant will create a vegetative buffer along the westerly line of the easement on his property, running approximately 50 feet from Salt Meadow Lane in a southerly direction. The Board finds that the proposed construction introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. Motion seconded by Mr. Carchia, all in favor, unanimous.

Seventh Application - (*continued from August 21, 2023*) Gregory Cone, 747 Country Way and 0 Country Way, Scituate, MA requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 610.B of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to create two lots at **747 Country Way, Scituate, MA 02066 (Assessor's Parcel Numbers: 12-3-9-0 and 12-3-9-B).** **Representing the Applicant – Mr. Jeffrey A. De Lisi of the law firm Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066 and Mr. Gregory J. Morse of Morse Engineering Co., Inc., 10 New Driftway, Suite 303, Scituate, MA 02066.**

Mr. De Lisi – presented and reviewed the application status. Mr. De Lisi stated that the plan had not changed from the original presented to the Board. It was stated that the Applicant is not proposing a second curb cut for the two lots (Lot A and Lot B). Lot A is currently accessed by an existing dirt driveway/easement, that is also in use by adjoining properties. The easement/drive that services Lot A begins several lots away on Country Way.

Mr. De Lisi – suggested that the requested curb cut be refocused to provide access solely to Lot B, such that it is not located directly across from a driveway on the other side of Country Way. There would be no common drive.

Mr. Morse – stated that 747 Country Way (Lot A) would be accessible only via the currently in use easement/drive.

Meeting was opened for public comment --

Ms. Patricia Lambert – (on-line) commented on the status of Country Way as a scenic road.

Mr. Chris Diiorio (abutter @ 719 Country Way, Scituate, MA 02066) – (on-line) suggested that the Board consider keeping the lot lines as drawn, but provide a lot frontage variance to Lot A.

Mr. Xixis – responded to Mr. Diiorio that to provide a variance to Lot A would create an unbuildable lot.

Mr. Xixis – made a motion on the application of Gregory Cone, 747 Country Way, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 610.B of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to

create two lots at 747 Country Way pursuant to the plan by Morse Engineering Co, Inc. dated June 30, 2023 with the condition that Lot A is serviced solely by the existing 50' way/recorded easement and that use of an existing dirt driveway on Lot A (providing direct access to Country Way) will discontinue. Motion seconded by Mr. Fleming, all in favor, unanimous.

Eighth Application - (*continued from August 21, 2023*) Mark Daileader, 12 Graves Avenue, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2.C and/or 810 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow to raze, reconstruct, and extend a preexisting, non-conforming residential accessory structure located at **12 Graves Avenue, Scituate, MA 02066 (Assessor's Map 22, Block 7, Parcel 4)**. **Representing the Applicant – Mr. Paul J. Mirabito of Ross Engineering Company, 683 Main Street, Norwell, MA 02061.**

Mr. Xixis – inquired as to whether or not the plans for the proposed raze, reconstruct and extend had been changed from Mr. Mirabito's initial presentation.

Mr. Mirabito – shared that the plans had not changed.

Mr. Xixis -- made a motion on the application of Mark Daileader, 12 Graves Avenue, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 810.2.C and/or 810 of the Scituate Zoning Bylaws and/or any other relief that the Board of Appeals may grant, to allow to raze, reconstruct, and extend a preexisting, non-conforming residential accessory structure located at 12 Graves Avenue, Scituate, MA 02066 pursuant to the plan by Grady Consulting dated July 19, 2023. The Board finds that such proposed construction introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. Motion seconded by Mr. Carchia, all in favor, unanimous.

ADDITIONAL BUSINESS

- **Request for Zoning Relief Extension** - William Slocum and 47 Town Way Extension, LLC, respectively, request an extension of the Special Permit and findings Decision of the Board of Appeals dated October 3, 2019, and filed with the Plymouth County Registry District of the Land Court as Document No. 00820738 in Book 00656, Page 7 and noted on Certificate of Title No. 131207, concerning 47 & 48 Town Way Extension from October 3, 2023 to October 3, 2024.

Mr. Jeffrey A. De Lisi of the law firm Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066 restated his request for an extension of the Board's Decision dated October 3, 2019. The Board's Chair, Mr. Xixis made a motion to allow the extension. Mr. Carchia seconded the motion, all in favor, unanimous.

APPROVAL OF MEETING MINUTES

May 18, 2023, June 15, 2023 and July 20, 2023 Meeting Minutes

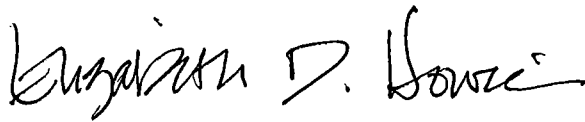
Mr. Xixis made a motion to approve the May 18, 2020, June 15, 2023, and the July 20, 2023 minutes. Motion seconded by Mr. Carchia, all in favor, unanimous.

ADJOURNMENT

Motion to adjourn by Mr. Xixis and seconded Mr. Carchia, all in favor, unanimous.

Meeting adjourned at approximately 9:30 p.m.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Elizabeth D. Howie". The signature is written in a cursive, flowing style with some capitalization.

Elizabeth D. Howie