

Town of Scituate

ZONING BOARD OF APPEALS

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SCITUATE, MASS.

600 CHIEF JUSTICE CUSHING WAY
SCITUATE, MASSACHUSETTS 02066
(781) 545-8716



Decision of the Scituate Zoning Board of Appeals on the application of Gerald J. McCarthy of 139 South Street, Medfield, MA, under Scituate Zoning By-laws 830 and 810.2.4 to allow the razing and reconstruction of the pre-existing non-conforming structure on the property which was destroyed by accidental cause, fire, and to increase the gross floor area of the structure by approximately 53%.

The application was received, advertised, and a public hearing was duly held on July 19, 2012 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman
Sara Trezise
John Hallin

The property is located at 109 Humarock Beach Road. The building on the property is a single family home which according to Town Assessors records was constructed in 1920. The property was destroyed by a multi-structure fire on March 9, 2012. The application seeks approval to reconstruct the dwelling with a new dwelling having a larger gross floor area (GFA) than previously existed. The existing structure had a GFA of approximately 2700 square feet. The proposed GFA is 4,142 square feet or 53% greater than that of the existing dwelling that was destroyed by the fire.

The property is located in the general business zoning district. The existing lot size, lot frontage, lot width and one property line setback are non-conforming and pre-exist current requirements, the structure having been built in 1920. The following table illustrates the existing and proposed non-conformities relative to current applicable dimensional requirements contained in Section 600 – Dimensional Regulations for the Business District.

	Lot Area (sq. ft.)	Lot Width	Frontage	Property Line Front Setbacks	Property Line Side Setbacks	Property Line Rear Setbacks
Required	10,000	100'	100'	30'	8'	20'
Existing	7,500	50'	50'	40'	7.8' and 9.3'	54'
Proposed	7,500	50'	50'	43'	10' and 10'	54.8'

The Applicant intends to raze the existing structure and replace it with a larger structure, although on basically the same footprint, but to increase the side yard setbacks to 10ft. from both side lines and to pull the structure back 3 ft. from the seawall, the front setback. By pulling the structure back 3 ft. from the seawall, the structure will also be taken out of the VE Zone to the AO Zone. The first floor will be raised on wood driven pilings to 16.75 feet.

Scituate Zoning By-law 830 in relevant part states: "A nonconforming structure or use damaged or destroyed by accidental causes may be repaired, reconstructed or restored either within the same portion of the lot or within a different portion of the lot provided that doing so renders the structure less non-conforming than previously and used as before, provided that such repair, reconstruction or restoration shall be completed within four years of said accidental damage or destruction"...

Since the present structure is non-conforming dimensionally and uninhabitable, having been destroyed by the March 9, 2012 fire, and the structure will be rebuilt basically within the same portion of the lot but with more conforming setbacks, making the structure less non-conforming than previously, the Board voted to approve the application allowing the reconstruction of the home pursuant to Scituate Zoning By-laws 830 and 810.2.4.

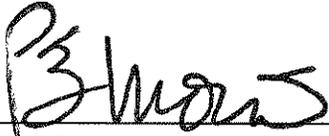
In approving this application, the Board found the criteria required under Section 950.3 A through E will be satisfied by the present plans as follows:

- A. The locus is in a residentially zoned district. As such the specific site is an appropriate location for both the use and structure.
- B. The proposed use will not adversely affect the neighborhood as the new structure will conform in all respects to the building code in effect at the time of construction and therefore the home will be safer than the prior antiquated preexisting structure. There will be no change in the present residential use of the property.
- C. There will be no undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure. The use will remain the same.
- D. Adequate and appropriate facilities will be provided to assure the proper operation of the proposed use and structure. Current environmental, health and building codes require that the Building Commissioner issue a building permit only upon his satisfaction as to complete and total compliance with the aforesaid codes.

E. Whereas the structure will be serviced by the existing on-site septic system and whereas there are no known potable wells within 100' of the locus, there will be no impact on any public or private water supply.

For the foregoing reasons, the Board unanimously voted to GRANT the application to permit the razing and reconstruction of the current dwelling and permit construction of a new larger single family dwelling as proposed on the plans submitted by the applicant dated June 9, 2012 by Ross Engineering Company, Inc., FINDING that the same will not be substantially more detrimental to the neighborhood than the current pre-existing nonconforming dwelling.

SCITUATE ZONING BOARD OF APPEALS



Peter Morin



Sara Trezise



John Hallin

Filed with the Town Clerk on: July 25, 2012.

This Special Permit/Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County of Deeds after the appeal period of twenty (20) days.

Appeal of any decision of the Zoning Board of Appeals may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.