

Town of Scituate

ZONING BOARD OF APPEALS

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



RECEIVED
TOWN OF SCITUATE
TOWN CLERK
2016 MAR - 8 AM 10:04

Decision of the Scituate Zoning Board of Appeals on the application of IM Culinary Consulting Corp. of 555 Canal Street Penthouse, Manchester, New Hampshire 03101 (hereinafter the "**Applicant**") for a special permit and finding, pursuant to the Scituate Zoning Bylaws, and specifically Section 810.2 thereof, and/or G.L. Ch. 40A, Section 6, to allow for the reconstruction of front steps and addition of a roof over the landing on an existing single family dwelling at 10 Summit Avenue, Scituate, MA (hereinafter, the "**Requested Relief**").

The application was received, advertised and a public hearing was held on January 21, 2016. The following members were present and voted at the public hearing:

Sara J. Trezise, Chairman
John Hallin
Francis M. Lynch
Edward C. Tibbetts

The Applicant, IM Culinary Consulting Corp., a corporation organized and existing under the laws of the State of New Hampshire, having its principal place of business located at 555 Canal Street, 17th Floor, Manchester, New Hampshire 03101, owns the property by Deed recorded with the Plymouth County Registry of Deeds at Book 46296, Page 30 (hereinafter, the "**Property**"). The Applicant filed a copy of an Assessor's Card from the Scituate Assessor showing that the buildings on the Property were constructed in 1920, and a plot plan showing the proposed addition entitled "Plot Plan For Addition, Assessors Map 13 Block 2 Lot 27, #10 Summit Avenue, Scituate, Massachusetts" dated December 16, 2015, Scale 1"=40', prepared by Grady Consulting, L.L.C., 71 Evergreen Street, Suite 1, Kingston, MA 02364 (hereinafter, the "**Plot Plan**").

The Property is located in the Residence R-2 zoning district and contains a single-family dwelling thereon. The existing single-family dwelling is pre-existing, nonconforming as to the front yard setback (19.5± ft. in a 30 ft. zone).

The Applicant proposes to reconstruct existing front stairs on the dwelling on the property and add a roof above the 4-foot by 4-foot landing. The roofed landing will increase the front yard setback nonconformity by 3.7± ft. (15.8± ft. in a 30 ft. zone).

The Board of Appeals considered the zoning relief requested, and specifically the last paragraph of Zoning Bylaw Section 810.2 of the Scituate Zoning Bylaw that provides as follows:

“In all other instances of alteration, reconstruction, extension or structural change to single or two family dwellings, the applicant may petition the Board of Appeals for a finding under General Laws Chapter 40A, Section 6 to allow the proposed repair, alteration, reconstruction, extension or structural change.”

M.G.L. Ch. 40A Section 6, as interpreted by the Massachusetts Appeals Court in *Gale v. Zoning Board of Appeals of Gloucester*, 80 Mass. App. Ct. 331 (2011), and other cases, requires the Board to identify the particular respect or respects in which the existing lot or structure does not conform to the present by-law and then determine whether the proposed alteration or addition would intensify the existing nonconformities or result in additional ones. If the answer is in the negative, the Board is required to grant the Special Permit. If the answer is in the affirmative, the Board must find the proposed increase of existing nonconformities is not substantially more detrimental to the neighborhood than the existing nonconformities in order to grant the Special Permit.

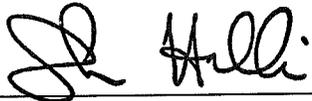
The Board specifically FINDS that the Property is pre-existing, nonconforming as to front yard setback; and that the proposed addition will increase the existing nonconformity. The Board also FINDS that the proposed addition will not be substantially more detrimental to the neighborhood than the existing structure.

Pursuant to Section 950.3 of the Town of Scituate Zoning Bylaw, the Board finds that the lot is appropriate for a single family dwelling. The use of the dwelling should not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single family dwelling. The proposed use of dwelling will not have a significant impact on any public or private water supply, and the lot is not located within the Water Resource Protection District. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the bylaw took effect, that there is no difference in the quality or character, as well as the degree of use, and the proposed use is not different in kind in its effect on the neighborhood.

Based upon the application materials, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicant has demonstrated that he is entitled to the Requested Relief. For the foregoing reasons, the Board unanimously voted to GRANT the application for a Special Permit to reconstruct existing front stairs on the dwelling on the property and add a roof above the 4-foot by 4-foot landing as set forth on the plot plan showing the proposed addition entitled "Plot Plan For Addition, Assessors Map 13 Block 2 Lot 27, #10 Summit Avenue, Scituate, Massachusetts" dated December 16, 2015, Scale 1"=40', prepared by Grady Consulting, L.L.C., 71 Evergreen Street, Suite 1, Kingston, MA 02364.



Sara J. Trezise, Chairman



John Hallin



Edward C. Tibbetts

Filed with the Town Clerk and Planning Board: MARCH 8, 2016

This Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry 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. Ch. 40, Section 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.