

# Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY  
SCITUATE, MASSACHUSETTS 02066  
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Decision of the Scituate Zoning Board of Appeals on the application of Brian V. and Christine McGowan owner /applicant of 9 Briarwood Lane Scituate, MA 02066 (hereinafter, the "Applicant") for a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6, and Scituate Zoning Bylaw (the "Bylaw") Sections 810.2 and 950.3 to add an attached garage and porch to the nonconforming single family dwelling intensifying and/or increasing preexisting front and rear yard nonconformities at 132 Lawson Road, Scituate MA (Assessor's map 33, Block 4, parcel 4.)

The application was received, advertised and a public hearing was duly held on December 17, 2015, with the following members of the Zoning Board of Appeals hearing the application:

Sara J. Trezise, Chairperson  
John Hallin  
Francis M. Lynch

The subject property (the "Subject Property") at 132 Lawson Road is owned by Brian V. McGowan and Christine McGowan of 9 Briarwood Lane, Scituate Massachusetts 02066 dated March 15, 2013 (See Quitclaim Deed #24664 filed with the Plymouth County Registry of Deeds, Book 42801, Page 285-286). It is located in Residence R-2 Zoning District. It is neither located within the Water Resources Protection District nor the Flood Plain and Watershed Protection District. The Subject Property is a 13,350 SF lot, one of several similarly sized lots granted Planning Board Approval October 13, 1954 as set forth in a Plan of Lots 168 to 172, Plan Book 10, Page 145, recorded with the Plymouth County Registry of Deeds October 21, 1954. The existing structure meets side setbacks.

The existing dwelling does not meet the current 30' front and rear set back. The Applicant has provided a copy of the current tax assessment from the Town of Scituate which indicates that the single family dwelling on the Subject Property was constructed in 1954.

The Applicant proposes to erect a two story attached garage and porch within the R-2 district. The proposed garage will be approximately 24' wide by 35.4' deep (front to back). The proposed rear yard setback will be 27.1' feet, side set back will be 16.8' and front set back will be 26.2 (existing front set back is 25.5') according to the plan submitted and stamped from Ross Engineering Co. dated 9/30/15 (hereinafter "the Site Plan").

The Board referenced the case of Gale v. Zoning Board of Appeals of Gloucester (2012), which it discussed in connection with the first hearing that evening and which was the subject of many previous discussions at prior hearings. Under the procedure described in this decision, the Board must first identify the particular respect or respects in which the existing structure does not conform to the present Bylaw. Then the Board must determine whether the proposed reconstruction, alteration or addition would increase or intensify the existing nonconformities or result in additional non-conformities. If the answer to that inquiry is in the negative a finding under Chapter 40A § 6 and Special Permit would be required. If the answer to the inquiry is affirmative, then the Board must determine whether the proposed additions would be substantially more detrimental to the neighborhood than the existing structure. If the Board finds the proposed additions are not substantially detrimental to the neighborhood, than a Special Permit may be granted.

In this case, the Board found that the lot is non-conforming as to lot size and the existing structure is non-conforming as to the front and rear setbacks. The Board further found that the proposed additions will intensify but not increase the front set back and that the proposed garage will intensify and slightly (3 inches) increase the non-conformity of the rear set back. Finally, the Board found the proposed additions would not be substantially more detrimental to the neighborhood than the existing structure.

Upon review of the plan and discussion of the proposed additions described in the Ross Engineering Site Plan, the Board determined the garage structure and porch met the criteria of Section 950.3 A through E.

- A. The Property is in a residentially zoned district. As such the specific site is an appropriate for both use and structure.
- B. The proposed use will not adversely affect the neighborhood as said use is a residential use consistent with uses in the R-2 District.
- C. There will be no undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure as the use will remain the same. Additionally there is no increase in vehicular traffic associated with this project.
- 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. In doing so the aforementioned assurances will clearly be met.

E. Whereas the proposed structure will be serviced by Town water and whereas there are no known potable wells within 100' of the locus, there will be no impact on the public or private water supply.

The Board specifically FINDS that the existing single family dwelling is a pre-existing nonconforming structure / use entitled to the protection afforded in M. G. L. Ch. 40A Section 6, and that a Special Permit be granted for the construction of a porch and garage in accordance with the submitted Site Plan for 132 Lawson Rd, Scituate, Mass, by Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061, dated September 30th, 2015 pursuant to Zoning Bylaw Sections 810.2 and 950.3 and G.L. Ch. 40A, Section 6.

ZONING BOARD OF APPEALS



Sara J. Trezise, Chairperson



John Hallin



Francis M. Lynch

Filed with Town Clerk and Planning Board on FEBRUARY 9, 2016.

This Special Permit 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. 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.