

Town of Scituate

ZONING BOARD OF APPEALS

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SCITUATE, MASSACHUSETTS 02066
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TOWN OF SCITUATE
ZONING BOARD

Decision of the Scituate Zoning Board of Appeals on the application Gardner and Maureen Oleson of 144 Turner Road, Scituate, Massachusetts (hereinafter, collectively, the "**Applicant**") for a special permit, finding, and/or other relief that the Board of Appeals may grant in accordance with the Scituate Zoning Bylaws and/or the Massachusetts General Laws, including G.L. Ch. 40A, Section 6, to construct an approximately 10 ft. x 26.5 ft. addition onto a pre-existing nonconforming single-family dwelling on a pre-existing nonconforming lot in the Residence R-3 and Flood Plain and Watershed Protection Overlay District, which addition will increase the gross habitable floor area by more than 20% at their home located at 144 Turner Road, Scituate, MA (the "**Property**").

The application was received, advertised and a public hearing was duly held on September 15, 2016. The following members were present and voted at the public hearing:

Sara J. Trezise, Chairman
Edward C. Tibbetts
John Hallin

The Applicant was present at the public hearing and was represented by Attorney Jeffrey A. De Lisi of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, MA, and by Jeffrey M. Hassett, P.E. of Morse Engineering Co., Inc. of 19 Union Street, Scituate, MA.

The Applicant owns the Property by deed dated March 16, 2016, and recorded with the Plymouth County Registry of Deeds at Book 46705, Page 199. According to the Applicant's deed the Property consists of two parcels of land laid-out on two separate plans recorded with the Plymouth County Registry of Deeds prior to the adoption of dimensional zoning in Scituate. Along with the said application, deed, and a record plan, the Applicant filed the following materials with Board of Appeals:

1. A copy of an Assessor's Field Card from the Scituate Assessor for fiscal tax year 2016 showing that the dwelling on the Property was constructed in 1930; and

2. Plot plan showing the dwelling that presently exists on the Property and the proposed 10 ft. x 26.5 ft. addition thereto entitled "Proposed Addition 144 Turner Road (Assessor's Parcel: 40-2-2) Scituate, MA" dated July 25, 2016, prepared by Morse Engineering Co., Inc. (hereinafter, the "**Plot Plan**").

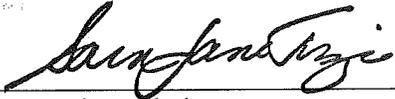
The Property is located in the Residence R-3 zoning district, and the Flood Plain and Watershed Protection overlay zoning district, and contains a single family dwelling thereon with an attached uncovered deck off of the rear westerly portion of the dwelling. According to the Plot Plan, the Property is nonconforming as to lot area (6,800 sq. ft. in a 10,000 sq. ft. zone), lot frontage (40.5 ft. in a 100 ft. zone) and lot width (40.5 ft. in a 100 ft. zone). Also according to the Plot Plan, the single-family dwelling thereon is dimensionally nonconforming to the Scituate Zoning Bylaw requirements of front yard setback (5.3 ft. in a 30 ft. zone), northerly side yard setback (7.8 ft. in an 8 ft. zone), and southerly side yard setback (4.6 ft. in an 8 ft. zone). There was a question raised at the hearing as to whether the dwelling is dimensionally pre-existing nonconforming on the rear yard due to the fact that at a point 69.32 ft. from the frontage street known as Turner Road, the southerly lot line turns northerly about 90 degrees for a short distance of ten feet and then turns westerly again for 92 ft. until it meets the rear yard boundary shown on the Plot Plan as Meadow Road. The Applicant argued that this 90-degree turn for ten feet in length should be considered part of the side yard lot line despite the fact that for such distance of ten feet it is more or less parallel to the frontage street before it turns westerly again for 92 ft. The Board determined that even if the said 10 ft. portion of the lot is to be considered part of the rear yard lot line, the single-family dwelling is nonetheless pre-existing nonconforming to the rear yard in that area because the house is set back less than 20 ft. therefrom. Therefore, under that analysis, while the proposed addition would intensify the rear yard nonconformity, it would not create any new nonconformities. The Board also determined the side yard nonconformity would be intensified by .2 feet, which was considered de-minimis.

The Board was satisfied that the requested addition to the dwelling would be consistent with the provisions of the National Flood Insurance Program and the provisions of the State Building Code pertaining to flood resistant construction, and that it will not affect the natural drainage patterns of the watercourse, if any, entitling the applicant to a Flood Plain Special Permit. .

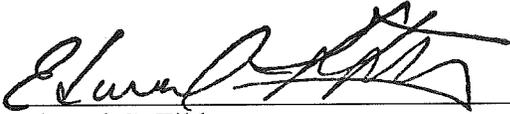
The Board of Appeals voted to find (i) that the Applicant's property was pre-existing nonconforming as to all dimensional lot and building setback requirements of the Scituate Zoning Bylaws, (ii) that the proposed addition would intensify the southerly side yard setback, as well as the rear yard setback (in the said area of the 10 ft. turn northerly from the southerly sideline), and (iii) that the proposed addition would not substantially more detrimental to the neighborhood than the existing dwelling.

Based upon the application materials, including the Plot Plan, the information provided at the public hearing, and the foregoing, the Board of Appeals unanimously voted to GRANT the requested finding.

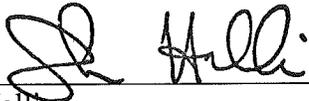
ZONING BOARD OF APPEALS



Sara J. Trezise, Chairman



Edward C. Tibbetts



John Hallin

Filed with the Town Clerk and Planning Board: NOVEMBER 30, 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.