

Town of Scituate

ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the application of Jamie Herlihy and Alicia Spradlin of 4 Jericho Lane, Scituate, Massachusetts for a finding under MGL 40A § 6 and a special permit to construct additions to the pre-existing nonconforming single family dwelling at 4 Jericho Lane, Scituate, Massachusetts.

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
John Hallin
Francis M. Lynch

The property that is the subject matter of this application is located in the R-3 Residential District. The property does not lie in the Town of Scituate Flood Plain and Watershed Protection District, nor does the property lie in the Town of Scituate Water Resource Protection Zoning District.

At the time of the application, title to the premises was in the name of Jamie M. Herlihy and Alicia C. Spradlin by way of a deed dated October 4, 2014 and recorded with the Plymouth County Registry of Deeds in Book 436841 Page 216-218.

The R-3 Residential District requires 10,000 square feet lot area and 100 feet of frontage and lot width. In addition, the R-3 Residential District requires a 30 feet front setback, 8 feet side yard setbacks, 8 feet rear yard setback for detached accessory structures and 20 feet rear yard setback for all other buildings.

The property has 17,094 square feet of land with 224.04 feet of frontage along Jericho Lane, a private way. The existing dwelling located upon the lot was constructed in 1850 and has a gross floor area of 1,446 square feet. The existing dwelling is setback 9 feet from Jericho Lane. The height, rear and side setback meet the requirements for the R-3 zoning district. The existing dwelling, therefore, is nonconforming as to its front yard setback.

At the December 17, 2015 public hearing, the Board reviewed a plan drawn by Morse Engineering Company, Inc. of Scituate, Massachusetts dated November 9, 2015 (herein after "the Location Plan") as well as elevations and floor plans prepared by Baker Architectural Design dated August 4, 2015 for the proposed additions to the dwelling. The Board discussed the fact that the proposed addition on the easterly side of the property would extend the front yard setback although, at its closest point, this addition would be set back 11 feet from the front, which is 2 feet further back than the setback for the existing dwelling. The Board considered the note made by the engineer that other dwellings on the same side of Jericho Lane and Jericho Road were non-conforming as to front yard setback as well (4 Jericho Lane was set back 9 feet; 8 Jericho Lane 20.8 feet and 11 Jericho Road was 26.9 feet).

The Board discussed the case of Gale v. Zoning Board of Appeals of Gloucester (2012), which would allow the proposed reconstruction if the Board first identified the particular respect or respects in which the existing structure does not conform to the present Bylaw and then determine whether the proposed reconstruction, alteration or addition would intensify the existing nonconformities or result in additional ones. 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.

Based upon the evidence presented, the Board finds that the front yard setback for the existing dwelling is pre-existing and nonconforming to the bylaw and that the Applicants' proposal to construct additions to the easterly side and to the rear of the single family dwelling is entitled to be reviewed by the Board pursuant to MGL c. 40A § 6, and Section 810.2 of the Town of Scituate Zoning Bylaw. The Board further finds that the proposed easterly addition will intensify the existing front set back non-conformity. In all other respects, the Board finds that the proposed additions are within the dimensional and set back requirements for the zoning district and do not create any new nonconformity. The Board further finds that the proposed additions, as set forth in the Location Plan, would not be substantially more detrimental to the neighborhood than the existing dwelling.

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

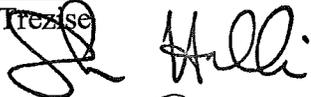
dwelling. The proposed use of dwelling will not have a significant impact on any public or private water supply, and the lot is not located within the Water Resource Protection District. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the bylaw took 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.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's request for a finding under MGL Chapter 40A § 6 and for a Special Permit to construct the additions to the single family dwelling as shown on the Location Plan.

ZONING BOARD OF APPEALS



Sara J. Trezise



John Hallin



Francis M. Lynch

Filed with the 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 40, Section 17, and shall be filed within twenty (20) days of the date of the filing of the decision with the Town Clerk.