

Town of Scituate

ZONING BOARD OF APPEALS

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



Decision of the Scituate Zoning Board of Appeals (“the Board”) on the application of Mr. John W. Mitchell, 557 Nantasket Avenue, Hull, MA (“the Applicant”) for a Finding under Massachusetts General Law (“MGL”) 40A Section 6 and a Special Permit under Scituate Zoning Bylaw (“SZB”) 1020.2 to allow the raze and reconstruction of the single-family dwelling located on a pre-existing, nonconforming lot at 596 Hatherly Road, Scituate, Massachusetts (“subject property”).

The application was received, advertised and an initial public hearing was opened on September 17, 2009 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman
Brian B. Sullivan
Sara J. Trezise

DESCRIPTION OF THE PROPERTY: At the time of the application, title to the subject property was in the name of John W. Mitchell by way of a quitclaim deed dated May 5, 2009 and recorded with the Plymouth County Registry of Deeds in Book 37157, Page 305-306.

The subject property is located in the A-3 Residential District. It does not lie within the Town of Scituate Flood Plain, Watershed Protection District, or Water Resource Protection District. There is a single-family dwelling and attached garage existing on the property. The Assessor’s field card shows that the dwelling on the property was constructed in 1930.

DETERMINATION ON ZONING BYLAW CONFORMITY: The Dimensional Regulations for lots and residential dwellings in the A-3 District are as follows -

- Lot area for a single family dwelling - not less than 10,000 square feet of upland;
- Lot frontage on a street or way - not less than 100 feet;
- Lot width at the dwelling - not less than 100 feet;
- Setback from any street or way - not less than 30 feet;
- Side yard setback - not less than 8 feet;
- Rear yard depth - not less than 20 feet.

The existing lot and buildings do not conform to current zoning requirements with respect to -

- Lot area - approximately 9,993 square feet;
- Setback from street – 20.0 feet (Hatherly Road);
- Rear yard setback –15.6 feet (easterly lot line).

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The Board determined that the subject lot fronts on both Hatherly Road and Grasshopper Lane and is therefore subject to two front yard setbacks.

The Board determined that the subject dwelling was in existence prior to the establishment of the Scituate Zoning Bylaw lot size, frontage and width provisions in 1953 and building height and setback requirements in 1956. Therefore, the Board finds that the property enjoys pre-existing, non-conforming status and the protections afforded by MGL 40A Section 6.

PROPOSED PROJECT: The Board reviewed the following documents provided by the Applicant –

1. Plan of Land drawn by Nantasket Survey Engineering, LLC, 46 Edgewater Road, Hull, MA dated 9/14/09 (one sheet)

The Applicant proposes to raze the existing dwelling and replace it with a new single-family dwelling, which shall not to exceed 35 feet in height at the ridgeline. The location of the new residence on the lot shall be 17 feet from Hatherly Road thus increasing the street setback nonconformity by 3 feet. Further, the building shall be 15.4 feet from the easterly property line, thus increasing the rear yard setback nonconformity by 0.1 feet. However, if the southerly lot line is used to establish the rear yard setback (30.3 feet) and the easterly lot line to establish a sideline setback (15.6 feet) both would conform.

No one in attendance at the Public Hearing spoke in opposition to the proposal.

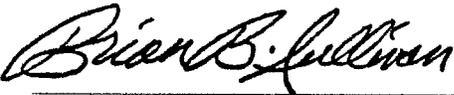
Pursuant to Section 1030.2 of the Bylaw, the Board finds that a) the lot is appropriate for a single-family dwelling, b) the reconstructed dwelling should not adversely affect the neighborhood, c) the use will not create any undue nuisance or hazard to vehicles or pedestrians, d) the Town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single-family dwelling, e) the proposed use of dwelling will not have a significant impact on any public or private water supply, and f) 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 relevant 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.

THEREFORE, the Board unanimously voted to GRANT the Applicants a Special Permit under SZB Section 1020.2 and Section 820 and a Finding under MGL Chapter 40A Section 6 that the proposal to raze building located at 596 Hatherly Road, Scituate, Massachusetts and replace it with a new single-family dwelling as presented by the Applicants is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determined that the Applicants may construct said dwelling provided that it is constructed as proposed at the hearing and it is completed within two years following the razing of the existing building.

ZONING BOARD OF APPEALS



Peter Morin, Chairman



Brian B. Sullivan



Sara J. Trezise

Filed with the Town Clerk on: October 5, 2009

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.