

Town of Scituate

ZONING BOARD OF APPEALS

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



RECEIVED

2016 AUG 29 PM 2:31

Decision of the Scituate Zoning Board of Appeals on the application of John and Mary Garrett of 73 Marion Road, Scituate, MA (hereinafter the “**Applicants**”) for a special permit and finding, pursuant to the Scituate Zoning Bylaws, and specifically Section 810.2 thereof, and G.L. Ch. 40A, Section 6, to allow for the construction of an addition, which will increase the existing gross habitable floor area by more than 20%, to a pre-existing, nonconforming single family dwelling at 73 Marion Road, Scituate, MA (hereinafter, the “**Requested Relief**”).

The application was received, advertised and a public hearing was held on August 18, 2016. The following members were present and voted at the public hearing:

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

The Applicants, John and Mary Garrett of 73 Marion Road, Scituate, MA, own the property by Quitclaim Deed recorded with the Plymouth District of the Land Court on October 31, 2005 as Document No. 595780, Certificate No. 108206 (hereinafter, the “**Property**”). The Applicant filed a copy of an Assessor’s Card from the Scituate Assessor showing a single family home was constructed in 1953. The Applicants are proposing a second floor addition within the footprint of the existing structure as shown on the Site Plan for 73 Marion Road prepared by Ross Engineering Company, Inc. dated June 30, 2016 (hereinafter, the “**Site Plan**”). The existing structure has a gross floor area of 1,404 square feet. The proposed addition will increase the gross floor area 408 square feet or 29%.

The Property is located in the Residence R-3 zoning district and contains a single-family dwelling thereon. The Property does not lie in the Flood Plain and Watershed Protection District or in the Water Resource Protection Zoning District. The Property is fronted on one side by Marion Avenue and on the opposite side by Eleventh Avenue. As shown on the Site Plan, the lot is non-conforming as to lot size, lot frontage and lot width. The existing structure is non-conforming as to the front set back from Marion Road, the right side set back and the left side set back. The structure is conforming as to the front set back from Eleventh Avenue.

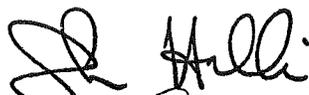
M.G.L. Ch. 40A Section 6, as interpreted by the Massachusetts Appeals Court in *Gale v. Zoning Board of Appeals of Gloucester*, 80 Mass. App. Ct. 331 (2011), and other cases, requires the Board to identify the particular respect or respects in which the existing lot or structure does not conform to the 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 may grant the Special Permit. If the answer is in the affirmative, the Board may find the proposed increase or intensification of existing nonconformities is not substantially more detrimental to the neighborhood than the existing nonconformities and grant the Special Permit.

The Board specifically FINDS that the Property is pre-existing, nonconforming as to lot size, frontage and width and that the structure is non-conforming as to the Marion Road front setback and both right and left side setbacks. The Board further finds that the proposed addition will not increase the existing dimensional non-conformities. The Board considered that to the extent that the addition may be deemed to intensify existing nonconformities, the Board also FINDS that the proposed addition will not be substantially more detrimental to the neighborhood than the existing structure. Finally, the Board FINDS that the Applicant has satisfied the requirements of Bylaw Section 950.3.

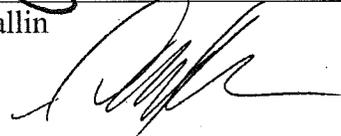
Based upon the application materials, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicants have demonstrated that they are entitled to the Requested Relief. For the foregoing reasons, the Board unanimously voted to GRANT the application for a Special Permit to construct a second floor addition within the footprint of the existing dwelling on the property as set forth on the Site Plan.



Sara J. Trezise, Chairman



John Hallin



Francis M. Lynch

Filed with the Town Clerk and Planning Board: August 29, 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.