

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 on the application of Robert E. Griffin, Jr. and Cathleen A. Griffin of 2 Sayles Road, Hingham, Massachusetts (hereinafter, collectively, the “Applicant”) for a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6, and Scituate Zoning Bylaw Sections 820, 1020.2(D), and 1030.2, that the reconstruction/extension/alteration by razing and reconstructing a nonconforming single family residential structure and a detached garage on a conforming lot will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The application was received, advertised and a public hearing was duly held on August 20, 2009, with the following members of the Zoning Board of Appeals hearing the application:

Mr. Peter Morin
Mr. Brian Sullivan
Ms. Sara Trezise

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The Applicant was represented by Attorney Jeffrey A. De Lisi of Ohrenberger Associates, Scituate, Massachusetts, by their representative, Robert Shepard, of Shepard Investments, LLC of Hingham, Massachusetts, and by Neil J. Murphy of Neil J. Murphy Associates, 231 Chief Justice Cushing Highway, Cohasset, MA 02025.

The subject property at 8 Driftway (sometimes known as “Old Driftway”), Scituate, Massachusetts (hereinafter the “Subject Property”) is located in Residence A-3 Zoning District, and is not located within the Water Resources Protection District. The Subject Property is owned by Robert E. Griffin Jr. and Cathleen A. Griffin by deed recorded with the Plymouth County Registry of Deeds at Book 36332, Page 129. A detached garage or accessory building is also located on the premises.

The Subject Property contains the required lot area and frontage required by the present Zoning Bylaw. The existing single family dwelling on the Subject Property conforms in all aspects to the present Zoning Bylaw except with respect to the front yard setback, which is 13.49 feet, according to the Applicant’s survey plan. The existing detached garage or accessory building on the Subject Property conforms in all respects to the present Zoning Bylaw.

The Applicant proposes to completely raze the existing single family dwelling and the detached garage/accessory building on the Subject Property and to reconstruct a new single family dwelling having a front yard setback of less than the required 30 feet but no

closer to the public way than the existing dwelling. The Applicant also proposes to erect on the Subject Property an accessory building which will conform in all respects to the present Zoning Bylaw. The proposed structure will not intensify any existing nonconformities or create any new nonconformities.

M.G.L. Ch. 40A Section 6 provides that “pre-existing nonconforming structures and uses may be extended or altered, provided, that no such extension or alteration be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming [structure or] use to the neighborhood.”

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.

In addressing whether the proposed use of the new structure will be substantially more detrimental to the neighborhood than the existing nonconforming use or structure, the Board considered the guidelines set forth in Powers v. Building Inspector of Barnstable, 363 Mass. 648 (1973), Derby Refining Company v. City of Chelsea, 407 Mass. 703 (1990), and Building Commissioner of Medford v. McGrath, 312 Mass. 461 (1942).

Based on the information presented the Board finds that the proposed structure and use will not be substantially more detrimental to the neighborhood of 8 Driftway, Scituate, Massachusetts, than the existing nonconforming structure and use, and that the proposed structure or use will not be substantially different in character or more detrimental or injurious to persons, property, or improvements in the vicinity.

The Board also considered the criteria set forth in the Scituate Zoning Bylaw Section 1030.2, and is satisfied that (i) the Subject Property is an appropriate location for the proposed structure or use, (ii) the proposed use as developed will not adversely effect the neighborhood, (iii) there will not be an undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure, (iv) adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use or structure, and (v) there will not be any significant impact on the public or private water supply.

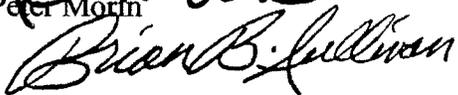
For the foregoing reasons, the Board unanimously voted to grant the Applicant a Special Permit under Scituate Zoning Bylaw Section 820, Section 1020.2 (D), and Section 1030.2, as well as a finding under M.G. L. Ch. 40A, Section 6, that the proposal to raze the pre-existing nonconforming single family dwelling and the detached garage located at 8 Driftway, Scituate, Massachusetts, reconstruct a single family dwelling as presented by the Applicant, and to construct an accessory building that will conform to zoning

requirements on the Subject Property is not substantially more detrimental or injurious to persons, property, or improvements in the vicinity.

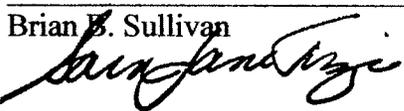
ZONING BOARD OF APPEALS



Peter Morin



Brian B. Sullivan



Sara Trezise

Filed with Town Clerk on: August 31, 2009.

This Special Permit/Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County 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.