

# 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 Paul J. Mirabito of 131 Rear Winter Street, Norwell, MA for a special permit under Section 610.2 B of the Zoning Bylaw that will allow the creation of two single-family dwelling lots on land between 87 and 103 Tilden Road, each of which lot will have frontage along Tilden Road of at least 50 feet and a width of at least 50 feet at every point between Tilden Road and the nearest part of the dwelling to be erected on each lot.

The application was received, advertised, and a public hearing was duly held on March 19, 2009, with the following members of the Zoning Board of Appeals hearing the application:

Peter B. Morin, Chairman  
Brian Sullivan  
Sara Trezise  
Edward Tibbetts  
John Hallin

The property that is the subject matter of this application is a portion of vacant land located in the A-2 Residential District and at the time of application was owned by Paul J. Mirabito, Trustee of Tilden Road Realty Trust by way of Certificate of Title # 66055 recorded with the Plymouth County Registry of Deeds in Book 330, Page 65, Document 211677, and at the time of this decision is owned by Mr. Mirabito, Trustee as aforesaid.

As shown on the plan that accompanied the application, the property contains 2.6 acres, more or less, of land. The subject lots to be created are designated as Lot 2 and Lot 3. Lot 2 contains 40,936 square feet (40,936 square feet of upland) and 50.58 feet of frontage along Tilden Road, a public way in the Town of Scituate. Lot 3 contains 51,123 square feet (51,123 square feet of upland) and 50.54 feet of frontage along Tilden Road. There is another lot shown on the plan, which is designated as Lot 1, which it appears to comply with all current Zoning Bylaw requirements. Lot 1 is not involved in this application.

At the public hearing, the Board reviewed the site plan dated January 2, 2009 by Ross Engineering Company, Inc., submitted with the application. First, under 610.2 B 1, for a 50 foot frontage lot, each said lot must contain at least two times the required area of upland for the Zoning District in which it is located. Therefore, each lot requested by the applicant must contain at least 40,000 square feet. Second, under 610.2 B 2, prior to approval of the Special Permit, the Department of Public Works shall review and comment on the proposed plan. A memorandum from Gene Babin, Scituate DPW, dated March 15, 2007 was reviewed. A detailed traffic study prepared by Greenman-Pederson,

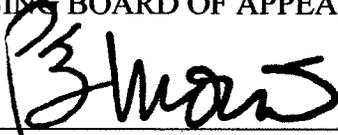
Inc., was submitted by the applicant. A memorandum from C.S.O. Arthur O. Wood, III, Scituate Police Dept., dated January 8, 2009 was reviewed. A memorandum from the Fire Chief, Richard Judge, dated March 19, 2009 was also reviewed. Third, under 610.2 B 3, when two (2) or more so called fifty-foot lots are approved at the same time, common driveways shall be utilized. The subject lots will be accessed via a common driveway subject to approval of Common Driveway (section 780 of the town's bylaws) and Scenic Road applications to be filed with the Scituate Planning Board.

Based on the evidence presented, the Board further finds that Lot 2 and Lot 3, as shown on applicant's plan, are each an appropriate location for a single family dwelling, and have more than double the lot area of the minimum required lot size in the A-2 District. The use of each of said Lots for a dwelling will 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 proposed use of each said Lot. The proposed use of each said Lot should also not have a significant impact on any public or private water supply, and neither of said Lots is located within the Water Resources Protection District.

For the foregoing reasons, The board unanimously voted to GRANT the applicant's a Special Permit to allow the creation of two single family house lot that are shown as Lot 2 and Lot 3 on the Application Plan, subject, however. To the following:

A restriction shall be inserted in the recorded deed of each of the said Lots and shown on the recorded Plan stating that each of the Lots is subject to a Zoning Board Special Permit, and that each of said Lots shall not be further divided or subdivided.

ZONING BOARD OF APPEALS



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Peter B. Morin, Chairman



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Brian B. Sullivan



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Sara J. Trezise

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Decision – Mirabito/Between 87 and 103 Tilden Road

Filed with the Town Clerk on: March 26, 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.