

# Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY  
SCITUATE, MASSACHUSETTS 02066  
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Decision of the Scituate Zoning Board of Appeals on the application of the Scituate Rod and Gun Club, Inc., 965 Chief Justice Cushing Highway, Scituate, Massachusetts for relief pursuant to Zoning Bylaw section 810.1 (“Structures and Uses Already in Existence”), 810.3 (“Nonconforming structures other than single or two family”), 820 (“Change [extension] of nonconforming use”), Section 420 “Table of Use Regulations” subsection 3. Commercial Uses, subsection N. “Club or Lodge” and/or M.G.L. c. 40A §6 to approve an existing shed and 50 yard preexisting nonconforming shooting range and to construct a baffle system over the entirety of said 50 yard range as approved by the Plymouth Superior Court in civil action no. CA 2009-00073A located at 965 Chief Justice Cushing Highway.

The application was received, advertised, and a public hearing was duly held on February 18, 2016 with the following members of the Zoning Board of Appeals hearing the application:

Sara J. Trezise, Chairperson  
Edward Tibbetts  
John Hallin  
Francis M. Lynch, first alternate  
Anthony J. Bucchere, second alternate

At the request of an abutter, and with the agreement of the Applicant, the hearing was continued to March 17, 2016 so that the abutter could submit materials to the Board that

had been presented to the Court in the proceedings before the Plymouth Superior Court. The Board requested that the materials be filed with the Board promptly so that the members could review the materials prior to the next hearing, which would be limited to the Board's discussion and vote on the application. The following members of the Zoning Board of Appeals were present for the March 17, 2016 hearing on the application:

Edward Tibbetts. Acting Chairperson  
John Hallin  
Francis M. Lynch  
Anthony J. Bucchere

The property, located at 965 Chief Justice Cushing Highway is in the R-1 residential district and is owned by the applicant pursuant to a deed recorded with the Plymouth County Registry of Deeds in Book 2053 at Page 219. The president of the corporate applicant was present and represented by Attorney Steven M. Guard of Norwell, MA.

The existing use enjoys "grandfathered" protected status as the same predates the adoption of the zoning by law in 1953. The use is also allowed in the R-1 district by special permit as a Club/Lodge. The applicant proposes to construct, directly adjacent to an existing 100 yard range, a 50 yard range which shall include earthen berms, an overhead baffle system and a shooting pavilion with electronically gated access and video camera surveillance consistent with the plans and operating procedures approved by the Plymouth Superior Court and filed with the board by the applicant. When constructed the entire overhead of the 50 yard range shall be covered with the baffle system and access will be limited by fencing and electronic gates to members, who have been specially trained for use of said 50 yard range, and their guests.

After a public hearing, which was duly noticed and advertised, the Board made the following findings, taking into consideration the applicant's representations, the materials filed, communications from various town boards and interested parties:

- a. The applicant is the owner of the property at 965 Chief Justice Cushing Highway.
- b. The Scituate Rod and Gun Club, Inc. ("SRGC"), a non-profit club, was organized and has been in existence since 1929.
- c. SRGC has occupied its present location since at least 1949 where shooting activities of all types have taken place continuously since.
- d. In 1956 the activities of the SRGC were a permitted use in a residential district as "non-profit social, civic or recreational use" and later became a legal pre-existing non-conforming use in 1960; then a special permit use in 1977 which remains true today.
- e. The property consists of 13.2 acres with an additional 16.5 acres owned by the applicant and located directly adjacent thereto. It is located in the R1 residential zoning district and presently exists as a pre-existing, non-conforming use as a fishing and shooting club with a single clubhouse and various outbuildings associated with storage and sporting clays shooting.

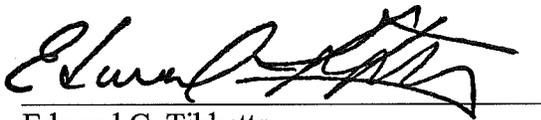
- f. The applicant presently has skeet and trap fields, a 100 Yard Range and archery courses as well as a fishing pond at the premises.
- g. The applicant allows hunting on its premises as allowed by Massachusetts law.
- h. The applicant is presently under a court injunction which prevents the shooting of rifles and handguns at the premises (but specifically excludes shotguns from such injunction).
- i. The applicant has recently received court approval to reopen the club for rifle and handgun shooting with certain restrictions and implementation requirements. One of is the construction of the baffle system shown in the Plan Set filed herewith entitled "Scituate Rod and Gun Club, Inc. 50 YD Dynamic Range" by C. Vargas & Associates, LTD. dated July 2014, which plan set has been filed with the board and approved by Judge Charles Hely of the Plymouth Superior Court.
- j. The applicant constructed without a permit in May of 2003 and desires to legalize an existing 14' by 24' shooting pavilion with 3' by 11' storage closet located at the firing end of the 50 yard range and to utilize the same in connection with the use of the court approved baffle system covering the entirety of the 50 yard range.
- k. The proposed 50 yard range is presently enclosed on three sides with 12 foot earth berms and the subject shed on the fourth.
- l. The proposed construction of the 50 Yard Range and the pavilion is an extension of the pre-existing non-conforming which is not substantially more detrimental to the neighborhood than the existing pre-existing non-conforming use.
- m. The proposed construction of the 50 Yard Range should be a significant improvement over what was utilized in the past and should serve to improve public safety.

For the foregoing reasons, based upon the application, plans and testimony submitted by the applicant, testimony heard at the public hearing, the Board voted unanimously to GRANT the applicants' request for a Special Permit. The Board FINDS that that the proposed use and plans are not substantially more detrimental to the neighborhood than the buildings and uses now existing. The Board FINDS that the Applicant has met the standard for a M.G.L. 40A §6 finding and the issuance of a Special Permit in accordance with Zoning Bylaw section 810.1 ("Structures and Uses Already in Existence"), 810.3 ("Nonconforming structures other than single or two family"), 820 ("Change [extension] of nonconforming use"). Pursuant to M.G.L. c. 40A §6 the Board grants the Applicant a Special Permit for the proposed construction and use as set forth in the plans entitled "Scituate Rod and Gun Club, Inc. 50 YD Dynamic Range" by C. Vargas & Associates, LTD. dated July 2014 which plan set has been filed with the board and approved by Judge Charles Hely of the Plymouth Superior Court, WITH THE FOLLOWING CONDITIONS:

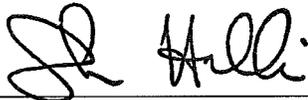
1. The applicant shall comply fully with the Plymouth Superior Court Civil Action No. 09-73A, Findings and Order dated February 18, 2014 and January 29, 2015 copies of which are attached hereto as Exhibit A and incorporated herein by reference thereto, including but in no way limited to, all construction, design and operating conditions and requirements thereof.

2. Before it can use the 50 Yard Range, it is understood that after construction the applicant is required to petition the Superior Court for final approval. The applicant shall file with the building department a copy of the "as built" plan certified by an engineer or architect and a copy of the Judge's order allowing the applicant to open the 50 Yard Range prior to its use.
3. Nothing herein shall authorize the reopening of the 100 Yard Range for rifle and handgun shooting which is closed pursuant to the Plymouth Superior Court injunction. The 100 Yard Range shall not be used for rifle and handgun shooting without further decision by this Board.
4. The applicant shall be required to report as soon as reasonably possible to the Scituate Police Department and the Building Department any knowledge it may have regarding any instance of a projectile leaving the applicant's property.
5. The Zoning Enforcement Officer shall have the authority to enforce any condition hereof, including those set forth in the Court orders attached hereto and made a part hereof. Such enforcement may, include closure of the 50 Yard Range to protect public safety until such time as a final determination is made by an investigating authority that the range can be used safely.

ZONING BOARD OF APPEALS



Edward C. Tibbetts



John Hallin



Francis M. Lynch

Filed with the Town Clerk and Planning Board on April 20, 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.