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**Scituate Zoning Board of Appeals
Meeting Minutes
April 21, 2016**

PRESENT: Sara Trezise, Chairperson, Frank Lynch, John Hallin and Anthony Bucchere.
Also Present: Neil Duggan, Building Commissioner and Zoning Enforcement Officer.

The Scituate Zoning Board of Appeals held a public hearing on April 21, 2016 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:00 P.M.

Ms. Trezise addressed the difficulties involved in repeated requests for continuances on the same application as well as receipt of said requests in the eleventh hour. The agenda is impacted in that another applicant may not have the opportunity to present their application to the Board if the agenda appears too full. Last minute requests for continuance do not consider time the Board members devote to reviewing applications prior to the hearing. Ms. Trezise kindly asks applicants to be considerate of these points and refrain from any unwarranted request for continuance.

First Application: David Comeau of 6619 S. Dixie Hwy- Unit 376, Miami, FL requests a Flood Plain Special Permit under section 470.6F and a Finding/Special Permit or Variance under M.G.L. Chapter 40A, Section 6 and 10 to raze and reconstruct non-conforming single family dwelling adding more than 20% to existing gross floor plan located at **169 Jericho Road, Scituate, MA (Assessor's Map 46, Block 14, Parcel 10)**.

The Applicant requested to continue the hearing until the May 19, 2016 meeting per a letter dated April 8, 2016.

Mr. Lynch moved to allow the Applicant to continue the hearing to the May 19, 2016 meeting, seconded by Mr. Bucchere. All in favor, unanimous.

Second Application: Kenton L. Bongarzone of 17 Gates Circle, Scituate, MA requests a Special Permit/ Finding in accordance with Scituate Zoning Bylaw Sections 810, 820 and M. G. L. Chapter 40A, Section 6 to permit the extension, alteration and/ or intensification of a pre-existing non-conforming use and structure at **5 Williamsburg Lane, Scituate, MA (Assessor's Map 37, Block 2, Parcel 4A)**.

The Applicant requested to continue the hearing until the May 21, 2016 meeting per a letter dated April 19, 2016 (see file).

Mr. Hallin moved to allow the Applicant to continue the hearing to the May 19, 2016 meeting, seconded by Mr. Lynch. All in favor, unanimous.

Third Application: (Continued from February 18, 2016) Jonathan Aprea of 23 Shipyard Drive, Hingham, MA requests a M.G.L. Chapter 40A, Section 6 Finding/ Special Permit on behalf of John M. Creedon to raze a single story non-conforming garage and construct a two story garage in a larger footprint keeping the same non-conforming setbacks. The property is located at **4 Grasshopper Lane, Scituate, MA (Assessor's Map 7, Block 7, Parcel 2)**.

The Applicant requested to continue the hearing until the May 21, 2016 meeting per a letter dated April 20, 2016 (see file).

Mr. Hallin moved to allow the Applicant to continue the hearing to the May 19, 2016 meeting, seconded by Mr. Lynch. All in favor, unanimous.

Fourth Application: (Continued from March 17, 2016) Arthur V Jr. and Debra Cote of 92 Cross Street, Marshfield, MA request M.G.L. Chapter 40A, Section 6 Finding/ Special Permit to raze and reconstruct their pre-existing non-conforming single family dwelling located at **135 Humarock Beach Road, Scituate, MA (Assessor's Map 71, Block 5, Parcel 12)**.

Representing the Applicant: Arthur V. Cote, Jr., Greg Morse, Registered Engineer and Steven Guard, Esq.

Attorney Guard explained the status of the application following the February hearing. Mr. Cote provided the Board with the documentation requested at the prior hearing which included a deed of easement and a revised site plan prepared by Morse Engineering. The property, constructed in 1920, is located in the R3 residential zone and is nonconforming with respect to lot width, frontage, westerly setback and the south facing setback. Existing square footage of the dwelling is 1336. The proposed square footage is 2309 which represents an increase of 73%. Attorney Guard explained the increase is primarily due to the addition of a second floor. The southern facing setback, currently encroaching on the abutting property, will be pulled back with a proposed setback of 1.8', thus no longer encroaching on the property. Other setbacks will be conforming. The deck, located on the abutting neighbor's property, will be reconstructed. A deed of easement for the deck and septic maintenance and a reciprocal deed of easement providing access to the pool area were submitted to the file.

Mr. Duggan stated the property lies within the 2016 proposed FEMA flood map in a velocity zone.

Attorney Guard confirmed the proposed dwelling would be constructed on piles in accordance with the proposed elevation of the 2016 FEMA maps.

There were no public comments.

Mr. Lynch moved on the application for a Special Permit at 135 Humarock Beach Road that the Board find the existing property is nonconforming with respect to lot width and frontage, that the existing structure is nonconforming as to the south side setback and the rear setback as shown on the plan by Morse Engineering dated 4-12-2016 and that the proposed reconstruction of the home will not change rear setback and will eliminate the

encroachment and increase the setback to 1.8'; further move that the Board find the proposed construction will not be substantially more detrimental to the neighborhood than the existing structure and that all criteria under Section 950.3 are satisfied and that the Applicant be granted a Special Permit.

Motion seconded by Mr. Hallin, all in favor, unanimous.

Fifth Application: Janey E. Davidson of P.O. Box 372, Minot, MA requests a M.G.L. Chapter 40A, Section 6 Finding/ Special Permit to raze and reconstruct their single family dwelling adding more than 20% to the existing gross square footage located at 34 Bailey's Causeway, Scituate, MA (Assessor's Map 008, Block 007, Parcel 017).

Ms. Davidson reviewed the application with the Board and explained the existing home, constructed in 1895 with square footage of 768, is proposed to be razed and reconstructed. The nonconformities are in lot frontage (55' where 100' are required) and side setback (7.8' where 8' are required). The proposed dwelling would eliminate the nonconforming side setback and has proposed square footage of 1906, representing an increase of 160%.

Mr. Duggan and the Board members complimented the Applicant on the design and size of the proposed dwelling.

There were no comments from the public.

Mr. Lynch moved on the application for a Special Permit at 34 Bailey's Causeway that the Board find the existing property is nonconforming with respect to frontage and that the structure is nonconforming with respect to one side setback (7.8' where 8' are required); further the Board find that the proposed reconstruction of the structure will eliminate the nonconforming side setback and that in all other respects the structure will conform with current zoning bylaws; move further to find that the proposed reconstruction is not more substantially more detrimental to the neighborhood than the existing structure and that in all other respects it conforms to section 950.3 of the Scituate Zoning Bylaws and that a Special Permit be granted, subject to submission of a revised plan.

Sixth Application: R.D.P. Realty LLC of 2048 Washington Street, Hanover, MA 02339 requests a Flood Plain Special Permit/ Finding under Section 470.9 of the Scituate Zoning Bylaws for the construction of a new single family dwelling at 138 Stockbridge Road, Scituate, MA (Assessor's Map 54, Block 2, Parcel 23C).

Representing the Applicant: Steve Bjorkland, Partner at Diamond Development.

Documents Presented: Quick Claim deed documenting Diamond Development and Delryn Development LLC as owners, Conservation Commission Order of Conditions.

Mr. Bjorkland explained the Applicant is seeking a determination of suitability to construct a single family dwelling 37-39' elevation above mean sea level. In 2006 a flood plain Special Permit was granted through the Planning Board which expired prior to construction. Subsequently the Zoning Board of Appeals became the granting authority for Flood Plain Special Permits which brings the Applicant before the Board. The Applicant is proposing a

2836 sq. ft. dwelling and a 24' x 24' garage as shown on the plan by Ross Engineering dated January 28, 2016. Mr. Bjorkland further explained the property is located in the R2 residential zone and falls within the Scituate Flood Plain and Watershed Protection district. The 1972 Scituate Flood Plain map indicates an elevation of 40' above sea level. The elevation of the proposed new dwelling is 37-39' above sea level. The result of a 2006 study by Sitec Corporation confirmed flooding below an elevation of 34'. Wetlands on the property are regulated by the Conservation Commission as well as enforcement of the 150' buffer zone as in accordance with the bylaws.

Ms. Trezise asked if the property floods.

Mr. Bjorkland stated the property is not subject to flooding.

Mr. Duggan explained to the Board that the 1972 Scituate Flood Plain Map was drawn by the Conservation agent and a Planner and encouraged the Board to accept the Sitec report which was also referenced on the Ross Engineering report. Mr. Duggan further stated he has never seen flooding in the area of the Applicant's property.

There were no comments from the public.

Mr. Hallin made a motion to grant a Flood Plain Special Permit under Section 470.9 of the Scituate Zoning Bylaws for construction of a new single family home at 138 Stockbridge Road with a plan by Ross Engineering dated January 28, 2016 and further that the Board find the property is not subject to flooding and not unsuitable because of drainage conditions for any use for which it is otherwise permitted as a single family home and complies with all requirements of Section 950.3 of the Scituate Zoning Bylaws. Motion seconded by Mr. Bucchere, all in favor unanimous.

Seventh Application: JMGH Family Realty Trust, P.O. Box 948, Hanover, MA 02339 requests a Special Permit/ Finding under M.G.L. Chapter 40A, Section 6 and/ or Section 810.3 to allow the razing and reconstruction of a preexisting, nonconforming multi family dwelling at **93-97 First Parish Road, Scituate, MA (Assessor's Map 49, Block 3, Parcel 1).** Representing the Applicant: John Barry, JMGH Family Trust and Greg Morse, Registered Engineer at Morse Engineering.

Mr. Morse reviewed the application with the Board and stated the existing structure, built in 1900 in the R3 residential zone, is a pre-existing, nonconforming structure and use. Nonconformities are in the front setback (9.3' where 30' are required). The structure is a six (6) unit, two and one half story multi family dwelling which has four (4) units with two (2) bedrooms and two units with one (1) bedroom. In addition to the three (3) parking spaces on the property, tenants currently use the public parking area located across First Parish Road. The proposed structure is a five (5) unit building comprised of five (5) two (2) bedroom units with proposed square footage of 1400 per unit. Total square footage of the building is proposed to be 7000. Each unit would have two (2) parking spaces allotted, five (5) of which would be in a garage. The remaining seven would be exterior spaces.

Ms. Trezise stated the proposed structure is very large.

Mr. Morse explained the building is wider, but would be pulled back to conform to the required 30' setback.

Ms. Trezise suggested a review by the Design Review Committee prior to issuance of a decision by the ZBA.

Mr. Barry suggested zoning relief subject to design review as an alternative to extending the review and permitting process. After an inspection of the existing structure Mr. Barry noted the significant deficiencies including, but not limited to, absence of a sprinkler, fire walls and insufficient means of egress. Razing and reconstruction enables these and other important safety deficiencies be rectified.

Mr. Duggan expressed his admiration for Mr. Barry to the Board. Mr. Barry is a reputable builder who has proven to be a pleasure to work with. Mr. Duggan concurred with Ms. Trezise in the recommendation for a design review prior to the Applicant pursuing a Special Permit through the ZBA.

The Board discussed the possibility and practicality of a joint meeting with the Planning Board as well as the recommendation of a Design Review Committee review. It was agreed that the most expeditious next step would be the design review and that a joint meeting with the Planning Board was not in the best interest of the Applicant or either Board. The ZBA can receive input from the Planning Board after a site plan review and design review.

Ms. Trezise opened the meeting for public comments.

Ben Bornstein and Zarla Ludin of 99 First Parish Road questioned Sections 430.3 and 750 of the Scituate Zoning Bylaws as they pertain to the application, concern over the possible existence of an undocumented tributary or intermittent stream as well as storm water issues as a consequence of the proposed structure and exterior parking spaces.

Mr. Duggan clarifies the interpretation of 430.3 by explaining the property is preexisting nonconforming structure and use therefore has a right to exist.

Ms. Trezise explained the review by the Design Review Committee would make recommendations in keeping with the neighborhood as section 750 addresses and a Storm Water review would be required by the Town Planner prior to construction commencing.

Pam Giovanni of 9 Stockbridge Road stated she does not want to look at garages with houses above it.

Richard Bowen of 28 Stockbridge Road stated his house has been on site since the 1700's with the same stone walls. Although he likes the condo idea, the proposed structure is too large for the neighborhood and not appropriate.

Steve Bjorkland of 38 Ladd's Way stated the lot is conforming for the residential district and meets setbacks. If it were a single family use it would not be in front of the ZBA. He wondered why the Applicant did not file the application for zoning relief under Section 820 for a change of use.

The Applicant requested a continuance to the June 16, 2016 meeting.

Mr. Lynch moved to continue the hearing on 93-97 First Parish Road to the June 16, 2016 meeting. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Minutes presented for approval.

Mr. Lynch moved to approve February 18, 2016 minutes as amended. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Meeting adjourned at 9:20pm.

Respectfully Submitted,

Anne M. Kelly

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