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**Scituate Zoning Board of Appeals
Meeting Minutes
March 17, 2016**

PRESENT: Ed Tibbetts, Acting Chairman, 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 March 17, 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.

First Application: 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).**

The Applicant requested to continue the hearing until the April 21, 2016 meeting per a letter dated March 8, 2016 (see file).

Mr. Lynch moved to allow the Applicant to continue the hearing to the April 21, 2016 meeting, seconded by Mr. Bucchere. All in favor, unanimous.

Second 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 April 21, 2016 meeting per a letter dated March 7, 2016.

Mr. Hallin moved to allow the Applicant to continue the hearing to the April 21, 2016 meeting, seconded by Mr. Lynch. All in favor, unanimous.

Third 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 April 21, 2016 meeting per a letter dated March 9, 2016 (see file).

Mr. Hallin moved to allow the Applicant to continue the hearing to the April 21, 2016 meeting, seconded by Mr. Lynch. All in favor, unanimous.

Fourth Application: Town of Scituate, 600 Chief Justice Cushing Highway, Scituate, MA requests a Special Permit under Section 620.2 of the Scituate Zoning Bylaw to construct a radio transmission tower to a height of 85', an accessory use of right, at the new Public Safety complex at **800 Chief Justice Cushing Highway, Scituate, MA (Assessor's Map 12, Block 3, Parcel 1).**

Representing the Applicant: Lieutenant Mark Thompson, Lieutenant, Scituate Police Department and Al Elliot, Deputy Fire Chief, Scituate Fire Department.

Documents submitted: Drawings showing placement of tower and site plan dated 8-31-15, revised 10-14-15.

Lieutenant Thompson described the application for an 85' radio transmission tower which will create a micro link to the existing 180' tower at 600 C.J. Cushing Highway. Due to topography the connection link needed to be elevated to 164'. The Applicant requested a Special Permit for a 10' extension over 75' allowed in accordance with the bylaw. The proposed grey monopole 85' tower would be located on the southeast side of the new Public Safety complex and would be used exclusively for public safety.

Mr. Duggan explained the radio transmission tower is a public use of right under Section 450.2 of the bylaws, and exceeding the 75' requires a Special Permit under Section 620.2.

There were no public comments.

Mr. Lynch moved to grant the request of the Town of Scituate for a Special Permit under Section 620.2 of the Scituate Zoning Bylaws to construct an 85' radio transmission tower for public safety use as set forth in the plan dated 8-31-15 prepared by Nitsch Engineering. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Fifth Application: John A. Cronin, c/o STC Construction Services, 545 Plain Street, Suite 3, Marshfield, MA requests a M.G.L. Chapter 40A, Section 6 Special Permit/ Finding to construct an addition to a preexisting non-conforming single family dwelling adding more than 20% to gross floor area at **304 Clapp Road, Scituate, MA (Assessor's Map 17, Block 2, Parcel 16).**

Representing the Applicant: Darren Grady, P.E., Grady Consulting L.L.C.

Mr. Grady described the application by stating property is in the R1 residential zone and was built in 1929. Nonconformities are in lot area (23,677 sq. ft. where 40,000 are required) and lot width (108' where 175 are required). The Applicant is seeking to expand the existing dwelling and raze and reconstruct the garage. The existing square footage of the dwelling is 1878. The proposed square footage is 2600 which represents an increase of 38% and will meet front, side and rear setbacks.

Mr. Hallin asked if the garage would be removed.

Mr. Grady stated it would be removed and replaced with the new garage.

Mr. Hallin confirmed the proposed porch would be the required distance from the septic system. Mr. Grady stated it would.

There were no public comments.

Mr. Lynch made a motion on the application of John Cronin for a Special Permit to construct an addition at 304 Clapp Road, I move that the Board find the existing property is nonconforming with respect to lot area and lot width, that the existing structure is conforming in all respects and that the proposed structure will not be nonconforming in any respects and the Board also find the proposed construction is not a substantial detriment to the neighborhood, that conditions under Section 950.3 are met and a Special Permit be granted to build in accordance with the plan submitted by Grady Consulting as revised on January 28, 2015. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Sixth Application: Andrew and Kristin Fitzsimmons of 11 Chet Way, Scituate, MA request a M.G.L. Chapter 40A, Section 6 Special Permit/ Finding to construct an addition to their non-conforming single family dwelling and increase the existing gross square footage by more than 20% at their home located at 11 Chet Way, Scituate, MA (Assessor's Map 20, Block 4, Parcel 19).

Representing the Applicant: Jeff Hassett, Civil Engineer of Morse Engineering.
Also present: Andrew Fitzsimmons.

Mr. Hassett discussed the application for a proposed addition of a two car garage with living space above. The Applicant also proposes a 4' deep x 5' wide roof over the front door. The property is in the R2 zone and is nonconforming with respect to lot area, lot width and front yard setback. The existing structure is 2128 sq. ft. The proposed addition would add 880 sq. ft., representing an increase in gross floor area of 41.4%.

Mr. Lynch stated the proposed entryway is an intensification and/or increase of an existing nonconformity. He asked Mr. Fitzsimmons if he would be agreeable to a condition stating the entryway may never be enclosed as part of the Special Permit.
Mr. Fitzsimmons agreed the condition.

There were no public comments.

Mr. Bucchere made a motion to grant the application of Andrew and Kristin Fitzsimmons for their property on 11 Chet Way to grant a Special Permit for a proposed addition pursuant to the plan by Morse Engineering dated February 22, 2016 and further find that no new nonconformities are created by the proposed addition and that any intensification or increase would not be substantially more detrimental to the neighborhood and further find that the proposed addition complies with Section 950.3 of the Scituate Zoning bylaws and that the Special Permit be granted with the condition that the proposed covered entryway shown on the plan shall not be enclosed. Motion seconded by Mr. Lynch, all in favor, unanimous.

Seventh 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)**.
Representing the Applicant: Jack Creedon, owner.
Documents submitted: Revised plans dated 2-25-16.

Mr. Creedon described the proposed plan to raze the existing single story garage and reconstruct a two car detached garage with office space above. Mr. Creedon assured the Board that although the plan shows a full bathroom, there would be no living space above the garage.

The property is in the R3 residential zone and is nonconforming with respect to side and rear yard setbacks. The proposed garage would be 1.2' from the westerly side line and 5.6' from the rear lot line. A slab must maintain a 10' setback from the septic field and tank.

Mr. Duggan stated in the R3 zone the rear setback is 8' for a single story structure. However, a two story accessory structure requires a 20' rear setback. Mr. Duggan also encouraged Mr. Creedon to consult with the Board of Health for required septic setbacks.

Mr. Tibbetts asked Mr. Creedon if consideration had been given to moving the garage toward the house or alternatively attaching the garage to the rear of the house and coming down the side yard to access the garage.

Mr. Creedon stated the septic setbacks eliminated those options.

Mr. Tibbetts opened the meeting to public comments.

Mr. Jack Mitchell of 596 Hatherly Road stated he lives next to Mr. Creedon and was initially opposed to the proposed garage addition. After discussion with Mr. Creedon showed a willingness to cooperate and address Mr. Mitchell's concerns, Mr. Mitchell is no longer opposed. Mr. Creedon revised his plan to remove windows along the western wall facing Mr. Mitchell's property as well as adjusting the roofline resulting in a more favorable result for Mr. Mitchell.

Mr. John Poole of 701 Country Way encouraged the Applicant to consult with his homeowner's insurance carrier for coverage limitations and costs.

Mr. Creedon expressed the consideration in moving the proposed location of the deck.

Mr. Tibbetts explained the challenge created by the required 20' setback for a two story garage in addition to the required setbacks for septic systems. Additionally, a two story structure may possibly create new nonconformities. Mr. Tibbetts further explained to the Applicant the options to move forward with his application which included requesting a continuance, withdrawing the application without prejudice or the Board voting on the application before them. A vote resulting in a denial of the request for a Special Permit would eliminate the possibility of the Applicant reapplying for two years.

Mr. Creedon opted to request a continuance and submitted said request in writing.

Mr. Tibbetts made a motion to accept the Request for Continuance. Motion seconded by Mr. Hallin, all in favor unanimous.

Eighth Application: (Continued from February 18, 2016) Scituate Rod and Gun Club, Inc. of 965 Chief Justice Cushing Highway, Scituate, MA request a Special Permit/ Finding pursuant to Section 810.1, 810.3, 820, Section 420 section 3N and/ or M.G.L. Ch. 40A Section 6 of the Scituate Zoning Bylaws 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 at 965 Chief Justice Cushing Highway, Scituate, MA (Assessor's Map 12, Block 6, Parcel 1).

Representing the Applicant: Steven Guard, Esq. and Phil Lennon, President Scituate Rod and Gun Club.

The Board continued the discussion of the application heard at the February 18, 2016 meeting. Documents submitted by Ms. Connelly following the hearing were reviewed by the Board and given due consideration and discussion. The Board agreed that the safety measures had been litigated extensively in the Superior Court and there was no concern with Judge Hely's approach. It was further agreed that all safety measures set forth as part of the Superior Court order as well as the condition that the Applicant must provide an as built site plan should be included in the Special Permit.

The Board further discussed sections of the Scituate Zoning Bylaws and the definitions and applications of Sections 810.1, 820 and 950 as applied to this application.

Mr. Lynch suggested the inclusion of an additional condition pertaining to to any report of a projectile bullet being investigated by the police. Should a determination be made that the bullet came from the range, activity shall be suspended. Further discussion of jurisdiction and protocol to best incorporate said condition followed.

Mr. Duggan explained that as the Zoning Enforcement Officer he has the authority to act on a request for enforcement. The Scituate Police would conduct an investigation following a report of a projectile bullet. In the event the investigation found the origination of the bullet to be from the range, the Zoning Enforcement Officer has the authority to issue an order to cease and desist following a request for enforcement. Neither the Scituate Police nor the Board of Selectmen would be within their jurisdiction to do so.

Mr. Lynch moved to grant a Special Permit with the following conditions:

- 1. The Applicant shall be required to report any instances of a projectile leaving the Rod and Gun Club's property.**
- 2. The Applicant shall fully comply with the Plymouth Superior Court Order No. 09-73A dated February 18, 2014 and January 29, 2015 including all construction, design and operating conditions.**
- 3. The Zoning Enforcement Officer shall have the authority to enforce any condition attached to the Special Permit or those of the Court orders including closure of the 50 yard range until such time as a determination is made by an investigating authority that the range can be used safely.**

4. **The 100 Yard Range shall not operate without further decision by this Board.**
5. **The Applicant shall submit a copy of the certified As Built plan by an Engineer or Architect as well as a copy of the Judge's order allowing the Applicant to open the 50 Yard Range prior to its use.**

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

Ninth Application: Francis M. Lynch of 155 Edward Foster Road, Scituate, MA requests a Special Permit/ Finding pursuant to Section 810.2A and M.G.L. Chapter 40A, Section 6 to allow the extension of an existing single family dwelling which will result in an increase of the gross floor area of 45.1% at 155 Edward Foster Road, Scituate, MA (Assessor's Map 51, Block 3, Parcel 15)?

Mr. Lynch recused himself from the hearing of this application.

Representing the Applicant: Paul Mirabito, Registered Engineer, Ross Engineering.

Mr. Mirabito described the application to the Board. The property is located in the R3 residential zone and is nonconforming with respect to lot frontage (88' where 100' are required). The existing gross floor area is 2343 sq. ft. The proposed plan to raze and reconstruct the garage and construct additions connecting to the existing dwelling will have a gross floor area of 3400 sq. ft. This represents an increase of 45%. Mr. Mirabito addressed the written concerns of an abutting neighbor with regard to storm water runoff. In accordance with the Scituate Storm water bylaw, an increase of more than 25% in impervious area would require storm water mitigation. The proposed plan has a 736 sq. ft. increase in the impervious area, or 16.5%. Therefore, no storm water mitigation plan is required. The impact of the proposed plan is expected to be minimal.

There were no public comments.

Mr. Bucchere moved to grant the Special Permit request of Francis M. Lynch of 155 Edward Foster Road to allow the proposed improvements in accordance with a site plan by Ross Engineering Company dated 2-22-2016 and to find said proposed improvements do not create any new nonconformities, increase any existing nonconformities and to the extent there is any intensification of any existing nonconformities, said intensification would not be any more detrimental to the surrounding neighborhood than the existing structure. Motion seconded by Mr. Hallin, all in favor, unanimous.

Mr. Hallin made a motion to adjourn. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Meeting Adjourned at 9:00 pm.

Respectfully Submitted,



Anne M. Kelly