

**Scituate Zoning Board of Appeals**  
**Meeting Minutes**  
**November 19, 2015**

TOWN OF SCITUATE  
TOWN CLERK  
2015 FEB 19 AM 9:16

**PRESENT:** Sara Trezise, Chairman, Ed Tibbetts, Frank Lynch, John Hallin and Anthony Bucchere.

**Also Present:** Neil Duggan, Building Commissioner and Zoning Enforcement Officer.

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The Scituate Zoning Board of Appeals held a public hearing on November 19, 2015 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:00 P.M.

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**First Application: : Stuart and Susan Coleman, 412 Tilden Road, Scituate, MA** request a Special Permit/Finding under M.G.L. Ch. 40a, Section 6 to add an attached garage to their nonconforming single family dwelling. The new garage will be set back less than the required 30' setback from Tilden Road at **412 Tilden Road, Scituate, MA (Assessor's Map 27, Block 7, Parcel 15).**

Susan Coleman explained to the Board the proposed plan to build a two car garage with storage above. The garage would be attached to the house with a mudroom and the rear deck would be removed. The proposed setback would be 28', an increase of the nonconforming setback.

Mr. Tibbetts noted the proposed addition does not intensify the existing setback, and is not a detriment to the neighborhood.

Mr. Lynch expressed concern the setback is an intensification of the nonconformity.

Ms. Trezise stated the proposed addition is not a detriment to the neighborhood.

Mr. Duggan stated it is an extension of the nonconforming setback, but not a detriment to the neighborhood.

Mr. Tibbetts asked the Applicant why it could not be moved back 2.3' or, alternatively, attach the garage in back.

Mrs. Coleman explained the architect intended to keep in line with the existing home wanting the addition to look as though it had always been there. Moving the garage back would change the configuration and mudroom space. The proposed plan also saves the existing patio from any disturbance.

There were no comments from the public.

**Mr. Hallin made a motion to grant the Special Permit/Finding to add an attached garage to the existing home at 412 Tilden Road on the plan prepared by Cedarville Design dated September 4, 2015 and to find it is not substantially more detrimental to the neighborhood, seconded by Mr. Tibbetts, all in favor, unanimous.**

**Second Application: Welby Builders, LLC, P.O. Box 160, Cohasset, MA request a Special Permit/Finding in accordance with M.G.L. Ch. 40a, Section 6 and/ or Section 810.2 of the Scituate Zoning Bylaws to allow reconstruction of a pre-existing, nonconforming dwelling at 579 Country Way, Scituate, MA (Assessor's Map 26, Block 2, Parcels 50 & 51).**

**Documents presented: Revised plan submitted Nov. 19, 2015**

**Representing the Applicant: Steve Hassett, Registered Engineer at Morse Engineering.**

Mr. Hassett explained to the Board the existing home is located in the R2 zone and was built in 1932 with the present square footage of 729. The current side setback is 4.33' and the lot width is 74.34'. The proposed square footage is 2508 and would have a conforming side setback of 15'. The garage and two outbuildings would be removed.

At the request of the Board, Mr. Don Gillespie, owner, stated he would submit a copy of the purchase and sale agreement for the file.

Ms. Trezise opened the meeting for public comment.

Jim Critchley of 585 Country Way inquired about the sort of septic system proposed.

Mr. Lynch explained septic systems are out of the jurisdiction of the Zoning Board. The Board of Health reviews and approves septic plans.

Cathy Downing of 577 Country Way expressed concern over the size of the proposed home as well as the placement of it. Ms. Downing felt it would overpower her home and for that reason asked the Applicant to consider moving the placement of the proposed structure.

Ms. Trezise explained that the proposed structure will comply with setbacks. The size and placement are at the owner's discretion.

Mr. Critchley asked if the garage and outbuildings would be demolished at the time of the main house.

Mr. Hassett confirmed that was the intention.

Mr. Duggan encouraged the Applicant to ensure demolition of all structures on the property occurred at the same time.

**Mr. Tibbets moved that the Board find the razing and reconstruction of the preexisting, nonconforming structure on a lot that is nonconforming as to lot width and side setback and as referenced on a plan dated 11/19/15 does not increase or intensify any nonconformity and will not create any new nonconformities. Furthermore removal of outbuildings on the lot be demolished in conjunction with demolition of main residence and all extraneous construction materials shall be removed, and a copy of the purchase and sale agreement be submitted to the file reflecting new owner. The Applicant may move the**

**structure as long as setbacks are maintained as proposed, but may not increase footprint beyond the proposed plan. Seconded by Mr. Bucchere, all in favor, unanimous.**

**Third Application: Lund A. Jensen, Trustee of 11 Elm Park, Scituate, MA** requests a Special Permit/ Finding pursuant to Section 610.2b of the Scituate Zoning Bylaw or for any other relief the Board deems necessary and proper to allow the construction of a single family dwelling on each of the two lots shown as Lot 1 and Lot 2, each of which lots contain more than 50 feet of frontage but less than 100 feet of frontage at **7 and 11 Elm Park, Scituate, MA (Assessor's Map 54, Block 1, Parcel 25-0 and 25-B).**

Representing the Applicant: Attorney Michael Hayes, Kaj Jensen (son of Applicant) and Brendan Sullivan, Cavanaro Consulting.

Ms. Trezise requested the Applicant submit a revised certified plan showing the square footage of upland.

Mr. Hayes reminded the Board that Lot 1 was before the Board nine years ago. The Special Permit expired before any construction took place. Lot 3, the lot in which the house is on, has the existing house, a barn and a small cottage. The Planning Board approved the cottage as an accessory dwelling. The house was built during the 1740's, while the barn and cottage were constructed during the late 1800's.

Mr. Sullivan stated the Applicant is requesting the Board's approval to create conforming lots as both lots have the required lot width.

Mr. Hallin explained to the Applicant no further subdivisions of the lot would ever be granted.

Ms. Trezise opened the meeting to public comment.

John McCarthy of 82 Greenfield Lane was concerned about the lot division and the negative impact the on the view from his yard.

Kim Burns, the realtor associated with the property, wanted to confirm the house, barn and cottage would remain intact for historical keeping, as this was the vision the owners had for the property.

Mr. Tibbetts explained the Applicant's desire to maintain the character of the land, and without a deed restriction the owner has the right under the bylaws to divide the land.

**Mr. Lynch moved on the application of Lund Jensen, Trustee for the creation of two 50' lots at 7 and 11 Elm Park that the Board grant the application for the creation of the 2 lots in accordance with the plan from Cavanaro Consulting dated 10-1-2015 subject to the filing of an amended plan showing both lots are entirely upland and further subject to the restriction that there shall be no further subdivision of either lot as provided in the bylaws. Motion was seconded by Mr. Hallin, all in favor unanimous.**

**Request for Modification: Walden Woods, LLC** request a modification to the Comprehensive Permit. The proposed revision is a reduction of the width of the proposed sidewalk from Tilden Ave. to Hazel Ave. and an elimination of the grass strip proposed from the front of sidewalk to the back of curbing at the location of the aforementioned sidewalk.

Representing the Applicant: Anthony Esposito, Civil Engineer and Paul Marrocco, Developer, Walden Woods, LLC.

Mr. Esposito described the modification request to the Board and said the Applicant is seeking to eliminate the grass strip and reduce the sidewalk from 5' to 4' and install a 6" berm which would add safety to the sidewalk. The 4' sidewalk would extend from Stenbeck Place to Rachel's Way, and a 5' sidewalk to Tilden Road. The homeowner at the southeast corner of Stenbeck and Hazel is in favor of the proposed change because the fence installed and landscaping they have planted will not require relocation and/or disturbance.

Ms. Trezise read correspondence submitted by Kevin Cafferty, Scituate DPW Director. Mr. Cafferty stated the town standard is a 5' sidewalk, and ADA requires a 5' sidewalk.

Mr. Duggan encouraged the Board to consider two questions.

1. Is this a substantial change?
2. Is this an ADA requirement? If so, the requirement must be met.

Mr. Duggan also asked if the code was cited in Mr. Cafferty's letter. Ms. Trezise noted no reference to the specific code.

Extensive discussion followed regarding ADA standards, requirements and compliance.

Mr. Duggan pointed out ADA compliance is not before the ZBA.

Mr. Marrocco offered to revise his request for modification to a 6" berm and a 5' sidewalk through the development.

Mr. Tibbetts stated the 5' sidewalk was agreed to and that the modification would be a 6" berm and the elimination of the grass strip.

Mr. Marrocco withdrew his request for a 4' sidewalk and agreed to remove the grass strip and keep a 5' sidewalk.

There were no public comments.

**Mr. Bucchere made a motion to accept the Applicant's modification request to remove the request for modification in the width of the sidewalk and motion to find that the change to the 6" berm and the removal of the grass strip is not a substantial change. Motion seconded by Mr. Tibbetts, all in favor, unanimous.**

**Request for Extension of Comprehensive Permit: Stockbridge Realty Trust** requests an extension of the Comprehensive Permit issued on February 10, 2003, and most recently modified

on January 18, 2013 for the property at **90 Stockbridge Road, Scituate, MA (Assessor's Map 054, Block 2, Parcel 28)**.

Representing the Applicant: Don Nagel, Esq.

Mr. Nagle explained to the Board the project has been delayed due delays in the storm water management system which required redesign. The next step in the process will be with the D.E.P. A lengthy process involving regulatory work is anticipated. The Applicant is requesting a three year extension of the Comprehensive Permit, and noted 90 units are proposed for the project.

**Mr. Tibbetts moved the Board find the request for a three year extension is not a substantial change to the Comprehensive Permit and further to grant the three year extension requested by the Applicant. Seconded by Mr. Bucchere, all in favor, unanimous.**

**October 2015 Minutes presented for approval.**

**Mr. Tibbetts moves to approve minutes. Motion seconded by Mr. Bucchere, all in favor, unanimous.**

Meeting adjourned at 9:00pm.

Respectfully Submitted,



Anne Kelly