

**TOWN OF SCITUATE  
ZONING BOARD OF APPEALS  
MEETING MINUTES**

**March 21, 2019**

TOWN OF SCITUATE  
TOWN CLERK

2019 SEP 24 PM 12:38

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**The Scituate Zoning Board of Appeals** will hold a public hearing in the Selectmen's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Hwy. on **Thursday, March 21, 2019 at 7:00 P.M.** to consider the following requests:

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Present: Anthony Bucchere, Chairman, Edward Tibbetts, Thomas Cavanagh, Brian Sullivan  
Also Present: Robert Vogel, Building Commissioner and ZEO.

**Mr. Tibbetts moved to take 52 Otis out of order. Our fourth application first due to the high volume of attendance. Seconded by Mr. Sullivan; Unanimous Vote (4-0).**

Mr. Bucchere explained that the applicant would present and then the abutters would be allowed to comment.

**Representing the Applicant:** Richard Servant of Stenbeck and Taylor  
Also in Attendance: Mr. Kevin E. Hunter

Mr. Servant explained that he was the surveyor for the project on 52 Otis Place. As shown on the plan, Mr. and Mrs. Hunter are requesting a Special Permit/Finding to raze and reconstruct the existing house. The house is pre-existing, nonconforming and does not meet current setbacks. The proposed house meets the zoning requirements with the front setback at 26.0 feet, meeting the average setback at 24.2 feet. The side setbacks will be at least 8 feet and the rear will be 20.3 feet. Mr. Servant said he would like Mr. Hunter to answer any other questions since he completed the remainder of the application. Mr. Sullivan said 40A. Section 6 allows the Board to approve a new structure in place of an old house. The use is conforming, but he questioned whether the proposed structure would be considered more substantially detrimental to the neighborhood.

Mr. Sullivan has given this application more thought than usual because of the increased percentage of new homes. There are two other applications tonight that are similar in nature. He knows this neighborhood and he believed it would be more substantially detrimental to the neighborhood. There are modest sized homes on reasonably sized lots. This particular home would be much larger. He was aware of the letters from the neighbors opposing the project, but that did not influence him. Each member of the Zoning Board brings their own judgement and knowledge of each neighborhood and therefore, he is opposed to approving this application.

Mr. Cavanagh echoed what Mr. Sullivan said. He had grown up in the neighborhood and also agreed that this would be the definition of a maximum build and should be more proportionate.

Mr. Tibbetts added that architectural drawings were not submitted, but were not required. The Zoning Board of Appeals only requires that you are meeting the requirements of the zoning bylaw. It is not our process to review designs. The structure would have to meet building requirements. We do have information presented to us so we can have an objective view of the entire neighborhood. We have areas like Cedar Point where they put the maximum on the lot. It becomes a slippery slope. We do not currently have a bylaw with a restriction for volume or for the size of the home. He has always advocated taking the neighborhood into consideration and speaking with the neighbors about a prospective project, he believes that if you own the land, you should be able to construct what you want.

Mr. Bucchere clarified that the lot size is 6955 and the current home is 950 square feet and the proposed plan for the new home would be 3359 square feet which would be an increase of 254%. It would be the smallest lot in the neighborhood with the largest home in the neighborhood. Mr. Bucchere said his quandary is with the word detriment. Obstructing a neighbor's view or making your home less aesthetically pleasing are not what he would consider detriments, but overcrowding and safety are two areas that he would consider to be detrimental. I believe we are trying to enforce a lot coverage bylaw that does not exist in the Town of Scituate. The Applicants are obeying all of the setbacks, so I need to find a detriment that restricts the right of the property owners. I am struggling and hope the neighbors are able to enlighten me. He finished with the existing home has two bedrooms and 1 bath and 3 are proposed. The proposed home will have a two car garage with a driveway that will accommodate two cars.

Mr. Tibbetts said the average setback can cause the garage to be a problem, if you were unable to back up with enough space, however this does not appear to be the case. Using average setbacks is not that unusual.

Mr. Bucchere explained that the average setback can be used instead of the required 30-foot setback from the street.

Mr. Bucchere said we received 5 letters from abutters and input from the Town Planner.

Mr. Bucchere asked if Mr. Vogel had concerns.

Mr. Vogel said he was on the Planning Board at least ten years ago and we discussed a lot coverage bylaw and they drafted a proposal at that time so this is not a recent concern.

*Bob Scott, 54 Otis Place*

I live on the left hand side of the proposed home (if you are facing it). He is concerned about lot size.

Mr. Scott has retained Ross Engineering to establish his property line. Eight feet is close.

Mrs. Scott said we provided photographs. We are also concerned with storm water and worried about the displacement of water. The development of Stenbeck Place has increased the water table already on Otis Place. The proposed driveway would remove a tree and we have already lost so many trees in the neighborhood. It will be the biggest home in the neighborhood on one of the smallest lots.

*Leah Scott, 54 Otis Place*

It is our understanding that there has to be a Public Shade Hearing to remove the tree.

*Anne Burbine, Chair of the Planning Board, 10 Pennycrest Road*

The house is too big for a small a lot. I concur with Mr. Sullivan that it will change the character of the neighborhood. The largest house is 2600 and the proposed house will be 3300 square feet.

Mr. Bucchere does not disagree with your statements, but I don't feel with the parameters we have as the Zoning Board; I have the right to turn them down.

Ms. Burbine said there is no reason the home couldn't be scaled down. I sympathize with the neighbors.

Mr. Bucchere said we need to enact a Zoning Bylaw to prevent this type of development, we are short circuiting it by denying the applicant to build the home in front of us.

Mr. Tibbetts said the discussion is about changing the characteristic of a neighborhood and whether that needs to be maintained. The condominiums that have been built on Otis Place has significantly changed the neighborhood. The lot behind the subject's property has a large pool. Neighborhoods do change and we have to take that into consideration. It should be noted, however once we vote, there is an appeal process. We have to find in a way that the court will support us.

*Leah Scott, 54 Otis Place*

We understand there is no lot coverage By-law. The whole neighborhood becomes a tear down. Mr. Hunter does not necessarily want to live in the neighborhood with complainers. I believe I have a very nice home for that neighborhood. The condominiums are large and John Tedeschi built a home that covers more of the lot than we would be building. Mr. Servant asked the Board members to explain ways to proceed.

**Mr. Servant and Mr. Hunter decided to request a continuance and put some more thought into the building plans.**

Mr. Tibbetts thought that it was important for the Hunter's to read the letters from the abutters. Mr. Bucchere thought it was the appropriate time to bring up the memorandum from the Town Planner where she mentions that the property may require a Storm water permit, a permit to remove a shade tree or trees. He explained that the memorandum would be available for review by the public in the Building/Zoning Department.

**Mr. Tibbetts moved to continue the application of Kevin E. and Karen A. Hunter regarding 52 Otis Place until our April 25, 2019 hearing which will commence in the Scituate Library. Seconded by Mr. Cavanagh; Unanimous Vote (4-0).**

#### 68 Seaview Avenue

Paul Mirabito of Ross Engineering representing the applicant. The applicant owns the property at 68 Seaview Avenue. The lot frontage requirement is 100 feet and Mr. Iantosca's lot has 50 feet of frontage. The lot size requirement is 10,000 square feet and the lot is 5,000 square feet. There is an attic as part of the proposal but there are no plans to finish that space at this time. The existing rear and side setbacks will conform. The front yard setback will meet the average setback requirements. The dwelling will be increasing from 900 square feet to 3,126 square feet. They are going to square the house off and that has been included in the gross floor area. There are no requirements for a storm water permit. The foundation will not change because they are building up.

Mr. Cavanagh asked Mr. Mirabito to confirm that the 3,126 of gross floor area included the attic. Mr. Mirabito said it is not currently living space but could be in the future so we included it in our calculations. Mr. Vogel said he would need structural information to ensure that a second floor could be supported.

**Mr. Sullivan made a motion to find that the proposed addition of Mr. Iantosca at 68 Seaview Ave as proposed by Ross Engineering dated February 12, 2019, will not be more substantially detrimental to the neighborhood than the pre-existing, nonconforming structure at this site and that the increased floor area will also not be more substantially detrimental than the current floor area. Mr. Tibbetts seconded; Unanimous Vote (4-0).**

#### 8 Hillcrest Road

Greg Morse of Morse Engineering representing the Applicant

Also in attendance: Mary O'Donoghue

Mr. Morse said the applicant was requesting a Special Permit/Finding to raze and reconstruct the home at 8 Hillcrest Road in Scituate.

The lot is located in the R3 Zone and is nonconforming due to size. The frontage is currently nonconforming at 90.07 square feet. It would become a 2 story building. The proposed dwelling would be placed essentially within the current footprint of the house and would conform with setbacks. The proposed gross floor area would increase by 146%.

Mr. Morse said we have two letters in favor submitted by the Gallups and Corbo's in favor of the project.

Mr. Vogel said it will need to go to Historical- Ms. O'Donoghue said it was already completed.

**Mr. Cavanagh made a motion on the application of Robert Jordan and Mary O'Donoghue of 8 Hillcrest Road, Scituate MA per their request for a Special/Permit Finding in accordance with M.G. L. Chapter 40A, Section 6 and Section 810.2 of the Bylaw for the raze and reconstruct as depicted by Morse Engineering submitted with the application dated February 19, 2019 to raze and reconstruct. The proposed reconstruct is not more substantially detrimental to the neighborhood. Motion seconded by Mr. Tibbetts, Unanimous Vote (4-0).**

*Samantha Fortin, 65 Marion Road.*

Mr. Cavanagh recused himself.

Representing the Applicant: Caroline Rees, Cavanaro Consulting

Also in attendance: Samantha Fortin and Nick Seaver

The lot is nonconforming at a little over 5,000 square feet as well as two frontage setbacks Marion Rd and 11<sup>th</sup> Avenue.

They would like to maintain the front portion of the home which is nonconforming. The 11th Ave setback would be at 28.6 which is conforming to average setback on that street.

They have an existing shed and would like to replace it with a 10.2 setbacks (average setbacks)

It is a large footprint increase and would like to add a porch within the proposed footprint.

Mr. Vogel said you could add something to the home to store things. The porch would count toward setbacks. The shed would not be approved. Average setbacks do not apply to an accessory structure.

Mr. Tibbetts said a deck can go beyond the setback and maybe you could gain storage below the deck.

Ms. Rees said they have two letters supporting the project.

Mr. Sullivan does not appreciate that there is no support for a neighborhood like Marion from the Town Planner. What you are proposing to build is out of character of the neighborhood. I submit it is far too big for the lot because it is a neighborhood of modest homes. He would like to see a scale back of the project.

Mr. Bucchere said that Brian Sullivan was only one opinion on the Board. Mr. Bucchere disagrees with Mr. Sullivan. He does not feel it will be detrimental to the neighborhood.

Mr. Tibbetts said that bylaws define the setbacks for where you can build and that he disagrees with Brian Sullivan. We are here to approve any application that meets those requirements. He advised the applicant that it should be in keeping with our bylaws and the neighborhood.

Mr. Vogel said he would side with Ed Tibbetts and the applicant on this application considering there is no negative response from the neighborhood. He further said that the Toll Brothers are going to be building homes that will dwarf this one.

Mr. Bucchere asked whether anyone in the audience wanted to comment.

*Finbarr Collins, 62 Marion Road*

Feels the application would be an improvement.

Mr. Bucchere gave the same options to the applicant that were mentioned to the applicants at 52 Otis Place.

**Mr. Tibbetts moved to find that the application of Samantha Fortin of 65 Marion Rd for an addition as proposed on plan by Cavanaro Consulting dated 2/27/19 is not substantially more detrimental to the neighborhood with the exception that the shed may not be relocated on the lot and the structure be built according to the setbacks on the plan; seconded by Mr. Bucchere, Majority in Favor (Mr. Sullivan opposed,)**

Herring Brook

Mr. and Ms. Engler.

Mr. Engler explained that it was a minor modification request and he passed out the new plan to the board. Since the last meeting, he took the neighbors out to Hook and Harvest to show the new plan, they were enthusiastic and supportive about the plan (landscaping and glorified garages) for the following reasons: residents can use, breaks up sea of asphalt, serves as a screen to closest abutters and shields headlights of cars parking. Second part of the request was the original waiver for 40 feet; we need to provide 9 foot ceilings; which would be 6 inches more for each floor and equates to increasing the height of the building to 41 feet 8 inches. There are some minor changes in the landscaping that will be part of the building permit which will be submitted in about 3-4 months. The plan reflects changes requested by the closest neighbors and Mr. Engler added that we are losing one space in the new plan as well. Mr. Engler said he was asking the Board to approve per "Condition 6" an Administrative approval (unsubstantial change).

Mr. Engler said that he identified our debt and equity, got extensions for the State permits and that the closing would be in May. The completion will be done in two parts, site work late summer early fall and foundation poured in the winter, targeting a Feb 2021 completion.

Mr. Tibbetts continues to be pleased with changes.

Mr. Sullivan said the plans have gotten better and better and feels that the garages are an excellent addition and they have met every reasonable request that the abutters have made. This project has received a lot of scrutiny on social media, Mr. Engler said he would welcome people to come see the construction.

**Mr. Tibbetts move to find that the outlined changes submitted with the plans are insubstantial. motion seconded by Mr. Sullivan; Unanimous Vote (4-0).**

#### 90 Stockbridge Road

Mr. O'Shaughnessy, Mr. Pilotte

Request for a modification for the property of 90 Stockbridge Road, change the number of units from 74 in 14 buildings to 68 units in 34 Duplex Buildings and to modify grading.

They were in front of the board two months ago and a peer review was requested. A letter was issued by CEI that notes the changes are not substantial. Changes should not affect Stormwater and drainage calculations.

#### Summary:

- The proposed changes are insignificant for Stormwater.
- Have no issues with drainage.
- Received peer review letters from Town's engineer and independent engineer, they consider changes insignificant in regards to Stormwater design.
- Reducing the units. This is not necessarily a negative, everyone wants an end unit.

The board and Mr. Pilotte were frustrated with all the back and forth with the engineers, but Mr. Bucchere felt it was necessary to review and reached the same conclusion. The Peer review found and corrected some mistakes.

Mr. Bucchere said two things stood out from the letter

First being 2B, Mr. O'Shaughnessy feels the comment on 2B should be brought up to DEP. The Board thought a narrative of how the pond is going to drain in the future would be helpful.

Mr. O'Shaughnessy requested an extension to the permit to 18 months instead of 12 months, (extended from 2/1/2020 to 8/1/2021).

Mr. Sullivan respectfully requested progress reports in writing going forward.

**Mr. Sullivan made a motion to permit the changes as proposed on the plans and agree to extend the permit to Monday, August 2, 2021; seconded by Mr. Cavanagh, Unanimous Vote (4-0)**

**Mr. Sullivan made a motion to adjourn, seconded by Mr. Bucchere, the meeting was adjourned at 9:07 PM.**

Respectfully Submitted,

Susan J. Tice