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**Scituate Zoning Board of Appeals  
Meeting Minutes  
October 19, 2017**

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The Scituate Zoning Board of Appeals held a public hearing on October 19, 2017 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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**Present:** John Hallin, Chairman, Sara Trezise, Ed Tibbetts  
**Also Present:** Bob Vogel, Building Commissioner and ZEO.

**First Application:** Martha A. Nugent of 34 Country Club Circle, Scituate, MA requests a Special Permit pursuant to M.G.L. Ch.40A, Section 6 and/or Section 610.2B of the Scituate Zoning Bylaws for the creation of a single family house lot which will have frontage of at least 50 feet at **568 First Parish Road, Scituate, MA (Assessor's Map 31, Block 1, Parcel 39).**

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

Mr. Mirabito reviewed the submitted site plan and application to the board. The property consists of 10.29 acres. The Applicant is seeking relief from the ZBA to allow the creation a building lot with 50' of frontage. The plan shows Lot 1 (not the subject of the application) and Lot 2. Lot 2 has the required double land area as required by the Scituate Zoning Bylaw for a single family dwelling. Mr. Mirabito explained to the public the Applicant is seeking zoning relief and must apply for and be granted permitting through the Planning Board for a storm water permit and septic permit through the Board of Health. It was further stated that a deed restriction will prevent any further lot division on Lot 2. However, at a future time the applicant has the option to pursue permitting to allow the development of Lot 1.

Mr. Hallin restated to the public that the lot may not be further subdivided.

The meeting was opened for public comment.

David Wessman of 584 First Parish Road asked if the proposed plan would make the existing home nonconforming. He further stated that although the property is not is designated wetlands water flows off the subject lot.

Mr. Mirabito explained the existing home would not be nonconforming as it has 205' of frontage.

Mr. Tibbetts explained that under the bylaw, the Applicant meets the criteria for the creation of a 50' frontage lot in the area designated on the plan as "Lot 2". Further, matters involving water and water runoff are not under the consideration of the Board.

Peter Montanari of 588 First Parish Road stated he supports Mr. Wessman's statement regarding water runoff. Additionally, he owns a triangle piece of the property on the Applicant's plan. Without the triangle piece belonging to Mr. Montanari the property would not have the required 80,000 square feet.

Ms. Trezise explained that a dispute of ownership would have to be addressed in court. The plan submitted with the application was certified by Mr. Mirabito, a registered Engineer and is accepted by the ZBA.

Mr. Mirabito clarifies the topographic information and property line information was provided to Ross Engineering by the owner of the property at that time. Ross Engineering used the information on the deed with the plan as forwarded by the previous owner for the creation of the submitted plot plan.

There were no further public comments.

**Ms. Trezise moved to approve the application for a 50' frontage lot as requested by Martha Nugent, Trustee, pursuant to M.G.L. Chapter 40A, Section 6 for the creation of a single family house lot at 568 First Parish Road, Scituate, MA as per the plan produced by Ross Engineering dated September 12, 2017. Motion seconded by Mr. Tibbetts. All in favor, unanimous.**

**Second Application: Paul & Bonnie Turcotte of 61 Seaside Road, Scituate, MA request a Special Permit in accordance with Scituate Zoning Bylaw Section 470.6F and 950.2B, and a Finding in accordance with Scituate Zoning Bylaw Sections 810.2 and 950.2D, and M.G.L. Chapter 40A, Section 6 and/or any other relief that the Board of Appeals may grant, to raze a pre-existing, nonconforming single family dwelling on a pre-existing nonconforming lot at 61 Seaside Road, Scituate (Assessor's Map 28, Block 4, Parcels 4 and 5) and to reconstruct a single family dwelling thereon which will not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood.**

**Representing the Applicant:** Attorney Jeff DeLisi of Ohrenberger, Harris and DeLisi and Paul Mirabito, Registered Engineer, Ross Engineering.

Attorney DeLisi reviewed the application with the Board explaining the existing structure, constructed in 1920 in the R3 residential zoning district, is a two story, three bedroom 1,932 sq. ft. dwelling which has two paper streets, a pond and land both east and west of the existing home on the property. Access to the property is via Driftwood Lane, a private right of way. The proposed plan shows a 2,778 sq. ft. dwelling with the front entrance of the dwelling along the paper street known as Seaside Road. The application to raze and reconstruct the single family dwelling will be elevated on piles and in full compliance with current FEMA regulations. The existing nonconformities are front yard setback and side yard setbacks. The proposed plan shows the house pulled back, thereby reducing the existing nonconformities and increasing the gross floor area by 43.8%.

Ms. Trezise stated her reservations in allowing the Applicant to build in to the paper street.

Attorney DeLisi stated the plan shows an uncovered landing and stairs. The applicant has the right to do so as long as it does not impede access. Under the "Derelict Fee" statute because there is no ownership in the paper street the property owner is deemed to own to the fee in the paper street, subject to the rights of others to pass and repass. As the proposed building in the paper street is not a covered area the owner has a right to build as long as such building will not impede access.

Mr. Mirabito continued the explanation of the submitted plan stating the proposed open decks around the perimeter of the house would be accessed by the stairs and small landing on Seaside Road, if allowed by

the Board. The nonconforming side setback on the east side is 7.7' with the proposed setback being 8.2'. The nonconforming side setback along the west side of the house is 8.3' with the proposed plan showing a reduction of the nonconformity to 9.8'.

The Applicant explained location of stairs allows ease of parking access.

The Board discussed granting the permit within the property line only, and agreed this would be in the best interest of all parties.

**Mr. Tibbetts moved to find that the plan as proposed by the Applicant and shown on the plan by Ross Engineering dated September 15, 2017 does not increase any pre-existing nonconformities, such nonconformities being side yard setback, front yard setback, lot width and lot frontage. The Board Finds in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaw Finding based on construction as described within the property lines of the lot. Additionally, move to grant a Special Permit under Section 470.6F of the Scituate Zoning Bylaw. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Third Application: Christopher Pratt of 6 Spaulding Avenue, Scituate, MA requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 to construct an addition adding more than 20% to the gross floor area of the nonconforming single family dwelling at 11 Bunny Lane, Scituate, MA (Assessor's Map 55, Block 2, Parcel 12A).**

Mr. Pratt reviewed the application and stated the proposed plan will not increase any of the existing nonconformities, nor create any new nonconformities. The pre-existing nonconformities are the rear setback (18.2' where 30' are required in the R2 residential zone) and the frontage (50.31' where 100' are required).

Ms. Trezise asked for confirmation of lot width calculation and noted the screened porch should have been included in the calculation of the gross floor area as it is a covered space.

Mr. Pratt referred to Section 610.1A of the bylaw which states lot width may be measured as close to parallel to lot frontage as practicable on irregularly shaped lots. Given the irregular shape of this lot the existing and proposed lot widths were measured parallel to the house. The proposed addition to the 1,780 sq. ft. home would increase the gross floor area by 36% for a total G.F.A. of 2,422.

Mr. Hallin asked if the home is on town sewer or septic.

Mr. Pratt stated the home is on septic although the proposed plan is not in close proximity to the system.

The Board discussed the intensification of the rear setback and determined such intensification is not more detrimental to the neighborhood.

There were no further questions from the Board or comments from the public.

**Ms. Trezise moved that the Board finds the application for a Special Permit/Finding to construct an addition adding more than 20% to the gross floor area of the nonconforming single family dwelling at 11 Bunny Lane, Scituate as represented on the plan by Morse Engineering dated 8/31/2017 that the Board find to the extent the nonconformities are intensified such intensification is not substantially more detrimental to the neighborhood than the existing home and that the Board grant the Special Permit. Motion seconded by Mr. Tibbetts. All in favor, unanimous.**

**Fourth Application: Mary J. Beaulieu of 77 Rebecca Road, Scituate, MA** requests a Special Permit/Finding under M.G.L. Chapter 40A, Section 6 to raze and reconstruct the preexisting, nonconforming dwelling at **77 Rebecca Road, Scituate, MA (Assessor's Map 46, Block 1, Parcel 8)** increasing the gross floor area by more than 20%.

The Applicant explained to the Board it was determined to be fiscally beneficial to demolish the existing structure and reconstruct than to elevate the structure and construct the previously permitted addition granted by the ZBA at the June 2017 meeting. The footprint will remain as was previously approved with the exception of the northwest corner which is proposed to be 9.47'. All other setbacks will be less nonconforming.

Ms. Trezise stated the increased calculation of 6.5 sq. ft. must be certified by an engineer and conditioned as such on a Special Permit.

**Mr. Tibbetts moved to find the proposed raze and reconstruction at 77 Rebecca Road as shown on the plan dated 5/17/2017 by Environmental Engineering Technologies will not create any new nonconformities; to the extent it intensifies any existing nonconformities such intensification is not substantially more detrimental to the neighborhood, further that the increase of more than 20% in gross floor area is not substantially more detrimental and therefore move to grant the Special Permit contingent upon submission of a certified plot plan to include the increase of gross floor area. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Fifth Application: Michael & Michelle Feehily, Trustees, of 74 Walnut Hill Drive, Scituate, MA** request a Special Permit/Finding under M.G.L. Chapter 40A, Section 6 and/or Section 810.2 of the Scituate Zoning Bylaws to raze and reconstruct the preexisting nonconforming dwelling at **119 Jericho Road, Scituate, MA (Assessor's Map 46, Block 12, Parcel 22F)** adding more than 20% to the gross floor area.

Representing the Applicant: Attorney Steven Guard and Gregory Morse, Registered Engineer of Morse Engineering.

Attorney Guard reviewed the application with the Board and reviewed the existing and proposed setbacks. The existing 1,188 sq. ft. structure is proposed to have a gross floor area of 3,290 when reconstructed. The increase of 177% is in keeping with homes on Jericho Road which have trended toward larger than other areas of town. The discrepancy of G.F.A. increase stated on the submitted site plan of 195% accounts for the mechanical room which was not used in the calculation. Relocation of the reconstructed home will offer off street parking and a rear yard with a reduction in the preexisting nonconformities.

Mr. Morse explained the submitted site plan for the property located on a corner lot in the R3 residential zone. The lot is located on the corner of Damon Road and Jericho Road and is nonconforming with respect to lot area (7,986 where 10,000 sq. ft. are required). The structure, built in 1860, is preexisting, nonconforming with respect to front yard setback on Damon Road (0' where 30' are required) and Jericho Road (4.8' where 30' are required). Side yard setbacks are nonconforming (right side at 3.2' where 8' are required and left side at 4.8' where 8' is required) as is lot area of 7,986 sq. ft. (10,000 sq. ft. required). The rear yard setback is conforming.

Mr. Tibbetts inquired about the submitted plans of land showing a date of 1946 and 1921. Neither of the structures on the lot appears to be the existing structure.

Mr. Morse and Attorney Guard surmised the existing dwelling was moved. Both appear to be similar in shape as well as close proximity to the existing structure.

The meeting was opened for public comment.

Joanne Kennedy, abutting neighbor, asked what the height of the finished structure would be.

Attorney Guard stated the finished height would not exceed the allowable height as defined by the bylaw.

There were no further questions from the public or from the Board.

**Mr. Tibbetts moved to find the construction as proposed to raze and reconstruct as shown on the plan by Morse Engineering dated 9/21/17, revised 10/19/17, will not create any new nonconformities and that any intensification will not be substantially more detrimental to the neighborhood, further that the increase on gross floor area of approximately 177% will not be substantially more detrimental to the neighborhood, and therefore Find under M.G.L. Chapter 40A, Section 6 and grant a Special Permit under Section 810.2 of the Scituate Zoning Bylaw. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Sixth Application: John M. Foley, Trustee of 18 Birch Lane, Scituate, MA requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and/or Section 810.2 of the Scituate Zoning Bylaw to allow the relocation of the existing single family dwelling located at 9 Ocean Avenue, Scituate, MA (Assessor's Map 8, Block 3, Parcel 13).**  
Representing the Applicant: Paul Mirabito, Registered Engineer at Ross Engineering.

Mr. Mirabito reviewed the application with the Board and explained the submitted site plan. The proposed plan shows the existing dwelling to be relocated 14.5' closer to Collier Road Extension using average setbacks on Collier Road and to push back 6" to a 24' setback on Ocean Avenue. After the house is lifted a new concrete foundation would be poured. The interior and exterior of the house would be renovated. The relocation of the house accommodates the septic system and, if the Applicant chooses, a garage at some future time.

Mr. Tibbetts reviewed the required and proposed setbacks and clarifies the average setback on Collier Avenue Extension.

The meeting was opened for public comment.

Edwina Fargo of 5 Ocean Avenue asked what the plan is for the house and when the garage would be rebuilt.

Mr. Mirabito explained a new foundation would be poured. Moving the house would allow a future reconstruction of the garage not to encroach as is the current state.

Jonathan Leet of 14 Ocean Avenue asked if the Applicant opts to raze and reconstruct the existing dwelling would they be required to apply for a Special Permit from the ZBA? Mr. Leet was concerned with a dramatic increase in the size of the house.

Mr. Hallin stated a new hearing would be required if the Applicant wanted to increase the gross floor area by more than 20%. That was not part of this application.

Mary Anne Diserio of 2 Collier Avenue asked if the front of the house would be turned.

Mr. Hallin stated the house fronts will remain the same.

There were no further comments from the public.

**Mr. Tibbetts moved to Find under M.G.L. Chapter 40A, Section 6 that the proposed relocation of the structure at 9 Ocean Avenue as described on the plan by Ross Engineering dated 9/19/17 does not create any new nonconformities, and to the extent it may intensify an existing nonconformity, it is not substantially more detrimental to the neighborhood. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Mr. Tibbetts moved to adjourn. Motion seconded by Mr. Hallin. All in favor, unanimous.**

Meeting adjourned at 8:45pm.

Respectfully Submitted,

A handwritten signature in cursive script that reads "anne M. Kelly". The signature is written in dark ink and is positioned above the printed name.

Anne M. Kelly