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**Scituate Zoning Board of Appeals  
Meeting Minutes  
November 15, 2017**

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The Scituate Zoning Board of Appeals held a public hearing on November 15, 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:** Frank and Joyce McNeil of 4 Elizabeth Lane, West Bridgewater, MA request 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 construct an addition to the preexisting, non-conforming dwelling at **15 Hazel Avenue, Scituate, MA (Assessor's Map 50, Block 13, Parcel 19)** increasing the gross floor area by more than 20%.

Representing the Applicant: Patricia Fischer of Fischer Associate Architects.

Ms. Fischer explained the existing home has been in the family for many years. The owners wish to retire and age in place. The proposed plan for an addition of a first floor bedroom and bathroom with enclosed garage would allow such. Further, the Applicant would like to add a farmer's porch to the front and side of the home.

Ms. Trezise stated the submitted plan of land which shows average setbacks does not help the Applicant's argument to further encroach on the front setback. The existing nonconforming setback of 29.2' is proposed to be 21.2' as shown on the submitted plan. Could the garage be moved back?

Mr. Tibbetts suggested the Applicant consider a pergola as an alternative to a covered porch.

The Applicant agreed to pulling the garage back to 29.2' and constructing a pergola in lieu of the covered farmer's porch.

The meeting was opened for public comment.

Elaine Gordon of 11 Hazel Avenue asked which side of the home the addition would be constructed. Drainage has been a problem in the area.

Mr. Hallin replied the addition would be on the right side.

Mr. Tibbetts stated the proposed plan would likely increase the non-permeable area on the lot.

Ms. Gordon asked what assurances are given to neighbors that drainage will not negatively impact surrounding properties.

Mr. Tibbetts replied Storm water permitting is not under the ZBA. The Planning Board reviews storm water plans and issues said permits.

Jean Comfort of 6 Hazel Avenue also expressed concerns regarding drainage and the impact of additional building projects.

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

**Mr. Tibbetts moved to find the proposed addition as shown on the plan by C.S. Kelley Land Surveyors stamped and dated 9/27/2017 and by Fischer Associates stamped and dated 6/15/2017 will not create any new nonconformities and to the extent it increases any existing nonconformities such intensification shall not be considered substantially more detrimental to the neighborhood provided the porch area to the east shall not be covered other than a pergola or the like and that the proposed addition to the north shall be located minimally 29.2' from the property line on Hazel Avenue and submission of a revised site plan reflecting said changes must be received prior to issuance of a building permit. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Second Application: Arthur and Carol Shannon of 32 Scituate Avenue, Scituate, MA request a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 810.2 of the Scituate Zoning Bylaw to allow the addition of a farmer's porch to their preexisting, non-conforming home located at 32 Scituate Avenue, Scituate, MA (Assessor's Map 39, Block 12, Parcel 9).**

**Representing the Applicant: Greg Morse, Registered Engineer, Morse Engineering.**

Mr. Morse described the application for the property located in the R3 residential zone. The nonconformities are in frontage (75' where 100' are required) and front yard setback (29' where 30' are required). The proposed plan to add a 5' farmer's porch would intensify the nonconforming front setback to 25' on a street where the average setback is 26.8'. Side yard setbacks would be in compliance.

Ms. Trezise suggested the Applicant consider a pergola instead of a covered porch so as to not intensify the preexisting nonconformity. A pergola is defined as an open roof, thereby not subject to setback requirements. Although the Board is sympathetic to the Applicant's wish, the Board must act in a manner consistent and fair to all.

Mr. Tibbetts explained the slippery slope of the Board allowing further encroachments of nonconforming setbacks.

The Applicant requested to withdraw the application without prejudice.

**Mr. Tibbetts moved to allow the Applicant to withdraw the application without prejudice. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Third Application: Marsha A. Klein of 146 Chief Justice Cushing Hwy., Scituate, MA requests an appeal of the Building Commissioner's issuance of a Building Permit pursuant to Sections 830 and 920.2 of the Scituate Zoning Bylaw for the property located at 160 Chief Justice Cushing Hwy. (Assessor's Map 58, Block 1, Parcel 4A).**

Mr. Hallin explained to the Applicant that the appeal was not filed in a timely manner.

Ms. Trezise explained to the Applicant the appeal period is 30 days from the date of permit issuance.

Ms. Klein stated the appeal was filed timely, as it was filed within 30 days of receipt of the letter from the property owners. Further, she was not aware of the 30 day appeal period.

Neil Duggan, Assistant Building Inspector, explained the letter received from Ms. Klein was date stamped 5 days after issuance of the building permit.

The Applicant explained that per advice of counsel the appeal was filed. Ms. Klein was led to believe that if the appeal was not filed in response to the building permit issuance she would have no further recourse. Additionally, Ms. Klein explained she has been a long time neighbor of the property and is very familiar with the fragile land and ecosystem. Further building in the area would be detrimental to the area.

The Board explained the scope of work under the building permit would not impact the surrounding land or ecosystem. Any work proposed to exceed the existing footprint of the house would require a hearing with the Conservation Commission and notice to abutters would precede such hearing.

The meeting was opened for public comment.

Kathy Donahue of 4 Cushing Landing stated there was no permit issuance date referenced in the letter sent by the Harris'. Ms. Donahue felt as though abutting neighbors had been misled.

Ms. Trezise explained that it is not usual for a property owner to send a letter notifying abutting neighbors of building permit issuance. The letter was sent as a courtesy, and does, in fact,, state the permit date.

Ms. Klein requested to withdraw the application for an appeal without prejudice.

**Mr. Tibbetts moved to accept the Applicant's request to withdraw without prejudice. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Fourth Application: Scituate Community Christmas, Inc. of 125 Mann Lot Road, Scituate, MA** requests a Special Permit/Finding under M.G.L. Chapter 40A, Section 9 and Section 420 of the Scituate Zoning Bylaw to allow the use of the premises located at **125 Mann Lot Road, Scituate, MA (Assessor's Map 26, Block 2, Parcel 9)** by a philanthropic or charitable institution.  
Representing the Applicant: Attorney Maureen Hurley.  
Also present: SCC President Jane Frank, Vice President Kim Stewart and Treasurer Bill Limbacher.

Attorney Hurley reviewed the application and provided a detailed history of Scituate Community Christmas as well as SCC operations to date. The subject property was purchased to streamline seasonal operations and allow for a central location. Additionally, other non- profits will benefit from use of the premises. The intended uses conform with the intent of the bylaw per Town Counsel.

Mr. Hallin stated the use has been demonstrated.

Ms. Trezise stated parking may need review as well as ADA compliance.

Ms. Hurley stated the building is a residence and thereby exempt from ADA compliance.

Mr. Duggan stated ADA is under the state building code and would be reviewed by Mr. Vogel, the Town ADA Coordinator and Building Commissioner.

**Mr. Tibbetts moved to grant the Special Permit for a change of use for a charitable institution. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**\*Informational presentation** by Michael Cucchiara, Director of the Grantham Group, regarding **Lawson Green Apartments, LLC.**

Representing the Applicant: Michael Cucchiara.

Also Present: Steven Coulter, Chairman of Scituate Housing Authority.

Mr. Hallin cautioned Mr. Cucchiara against presenting an overview of the project without an application submitted and abutters not having been noticed.

Ms. Trezise objected to the presentation without an application before the Board.

Mr. Cucchiara stated he expected to use the opportunity in front of the Board as a "socialization" of the project.

Mr. Hallin restated his cautionary statement.

Mr. Cucchiara explained the project has been funded, in part, with \$2,500,000 of C.P.C. funds for 30 units of affordable elderly housing. The senior population would be the target audience with local preference given. The D.H.C.D. has been slated for third party review.

Mr. Cucchiara thanked the Board for their time and looks forward to the submission of the application upon receipt of a project eligibility letter.

**\*\*Discussion, action and scheduling on Herring Brook Meadow** request for modification to the Comprehensive Permit.

Present: Attorney Jason Talerman, Special Counsel to the Town of Scituate.


Attorney Talerman reviewed the process for determination of a substantial change versus an insubstantial change. The ZBA has 20 days in which to make the determination. In the event the Board determines the changes to be insubstantial, the Applicant proceeds. Should the Board determine the changes are substantial a public hearing must be held. It is in the best interest of the Board to make a motion of such determination and vote at this meeting. The public hearing has been scheduled for December 7, 2017.

**Mr. Hallin moved to accept the waiver of substantial change and to declare the changes proposed as substantial as to the Applicant, Herring Brook Meadow LLC. Mr. Tibbetts so moved. 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,



Anne M. Kelly