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**Scituate Zoning Board of Appeals
Meeting Minutes
July 20, 2017**

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PRESENT: John Hallin, Chairman, Sara Trezise, Edward Tibbetts and Anthony Bucchere.
Also Present: Robert Vogel, Acting Building Commissioner and Zoning Enforcement Officer

The Scituate Zoning Board of Appeals held a public hearing on July 20, 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.

On behalf of the Board Mr. Hallin expressed condolences to the family of ZBA board member Frank Lynch who recently passed away following a brief illness. Mr. Hallin spoke of the Board's gratitude for the years of service Mr. Lynch so freely gave while serving on the Board of Health and the ZBA. The significant contribution of time, knowledge and friendship will be greatly missed by the Board and all those fortunate enough to work with Mr. Lynch.

First Application: Karen Lynch of 2 Cedar Crest Lane, Scituate, MA requests a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 810.2 of the Scituate Zoning Bylaws to construct a detached garage with accessory living space on a preexisting, nonconforming lot at **2 Cedar Crest Lane, Scituate (Assessor's Map 54, Block 1, Parcel 16)**.
Representing the Applicant: Gregory Morse, Registered Engineer of Morse Engineering.

Mr. Morse described the application for a two story garage addition off the rear of the existing home with an accessory dwelling on the second floor (following appropriate permitting from the Planning Board). The proposed 748 sq. ft. addition to the home built in 1946 is on a nonconforming lot in the R2 residential zone. The lot is nonconforming in lot area with 17,175 sq. ft. in a zone where 20,000 are required. The plan shows front, rear and side setbacks conforming to zoning requirements. The existing square footage of 1088 would increase 68.8% for a total of 1836.

The Board discussed ZBA permitting authority and clarified its authority to permit the dimensional addition of a garage with living space above, but not for the use as an accessory dwelling. Additional discussion of rear yard setback requirements for one and two story garages followed.

Mr. Morse confirmed the Applicant was seeking relief under Section 810.2 of the Scituate zoning bylaws for an increase of more than 20% to the living space on the preexisting nonconforming lot.

There were no public comments.

Mr. Tibbetts moved to grant the Applicant's request for a Special Permit under Section 810.2 to construct a detached garage with living space above as shown on a plan by Morse Engineering dated 6/6/17, and note the Applicant is before the Planning Board seeking an accessory dwelling Special Permit.

Mr. Bucchere amended the motion to find the application and proposed improvements do not create any new nonconformities, and to the extent they intensify any existing nonconformities, such intensification is not substantially more detrimental to the surrounding neighborhood than the existing structure.

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

Second Application: George Levoy of P.O. Box 321, Natick, MA requests a Special Permit/Finding pursuant to Section of 810.2A of the Scituate Zoning Bylaw and/or M.G.L. Chapter 40A, Section 6 to reconstruct a single family dwelling adding more than 20% to the gross floor area to property at 35 Brunswick Street, Scituate, MA (Assessor's Map 72, Block 4, Parcel 14).

Representing the Applicant: Paul Mirabito of Ross Engineering.

Also Present: George Levoy, Applicant and Owner.

Mr. Mirabito explained the application to raze and reconstruct the existing dwelling located in the R3 zone and described the submitted site plan. The property is nonconforming in lot area (5600 sq. ft. where 10,000 sq. ft. are required) and lot frontage (80' where 100' are required). The proposed plan to reconstruct the existing 632 sq. ft. home, built in 1950, will meet all setback requirements. The plan shows a 2398 sq. ft. single family home with a covered porch and open deck. The 1,766 sq. ft. proposed increase in gross floor area represents an increase of 280%. The average front setback on the street was calculated at 10.6. The proposed plan shows a front setback of 11.1'.

Mr. Tibbetts confirmed the nonconformities being lot area, frontage and lot width.

Mr. Mirabito concurred. Lot width is also nonconforming.

The Board discussed legal definition of a passageway and if it can be considered an intersecting street. Mr. Mirabito referenced the land court plan which sites a private way.

Mr. Bucchere asked Mr. Mirabito for the current and proposed bedroom count.

Mr. Mirabito stated the updated septic for a four bedroom system is currently in place. The existing home has two bedrooms, and three are proposed on the plan.

There were no comments from the public.

Mr. Bucchere motioned to grant the application of George Levoy of Natick, MA filed under Section 810.2A of the Scituate Zoning Bylaws to find the improvements as shown on the site plan by Ross Engineering dated 5/25/17 do not create any new nonconformities, and to the extent they intensify any existing nonconformities such intensifications are not substantially more detrimental to the surrounding neighborhood than the existing structure.

Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Third Application: John Gainey & Dawn Marie DePolo-Gainey of 170 Stockbridge Road, Scituate, 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 Bylaws to allow the expansion of their nonconforming single family home increasing gross floor area more than 20% at 170 Stockbridge Road, Scituate, MA (Assessor's Map 54, Block 2, Parcel 11).

Representing the Applicant: Gregory Morse, Registered Engineer of Morse Engineering.

Mr. Morse reviewed the application filed under Section 810.2 of the Scituate Zoning Bylaws for a two story addition to the existing 1244 sq. ft. home built in 1920. The property is located in the R2 residential

zone and is nonconforming in lot area (16,094 sq. ft. where 20,000 are required) and lot width (102.59' where 125' are required). The proposed 20' x 20' two story addition would increase the gross floor area by 35.7% for a total gross floor area of 2044 sq. ft. The existing front, side and rear setbacks comply with zoning regulations and would remain in compliance as shown on the submitted site plan.

There were no comments from the public.

Mr. Tibbetts moved on the application of John Gainey and Dawn Marie DePolo-Gainey for a Special Permit/Finding to find the property is nonconforming in lot width and lot size, that the proposed structure will not increase any nonconformities, and to the extent that the proposed structure is an intensification it is not substantially more detrimental to the neighborhood than the existing structure, and that the Board grant the Special Permit in accordance with the site plan by Morse Engineering dated 6/20/17 and stamped by Stephen Moran. Motion seconded by Ms. Trezise. All in favor, unanimous.

Fourth Application: John M. Sieminski and Mark A. Sieminski, Trustees of 573 Country Way, Scituate, MA request a Special Permit and/or any other relief that the Board of Appeals may grant pursuant to Sections 610.2B, 950.2B and 950.3 of the Scituate Zoning Bylaws to create a lot with more than fifty feet of frontage and two times the required upland square footage at 573 Country Way and 8 Hatchet Rock Road, Scituate, MA (Assessor's Map 26, Block 2, Parcel 47 and Assessor's Map 26, Block 2, Parcel 41).

Representing the Applicant: Attorney Bill Ohrenberger and Gregory Morse, Registered Engineer of Morse Engineering.

Also Present: Mike and Mark Sieminski.

Attorney Ohrenberger explained the application to allow the creation of a building lot. The Applicants have a Purchase and Sale agreement with Barbara Pye of 8 Hatchet Rock Road for the purchase of 1249 sq. ft. on the back of her lot. The conveyance of this land to the Applicants provides Lot 2 with total square footage more than 40,000, thus meeting the required amount (40,000 of upland) for the creation of a buildable lot in the R2 residential zone. A copy of the Purchase and Sale agreement is forthcoming.

Mr. Morse described the plan which shows Lot 1 in compliance with current zoning regulations. Lot 2, the subject lot, was found to be deficit in the square footage required to allow for the creation of a lot with more than 50' of frontage. Attorney Ohrenberger contacted Ms. Pye with regard to the conveyance of the 1249 sq. ft. at the rear of her lot to the Applicant. As shown on the submitted site plan, Lot 2 has 40,063 sq. ft. of upland and has 50' of frontage on Country Way. A notation had been made on the plan stating Lot 2 shall not be further subdivided. The existing dwelling, built in 1900, is located on Lot 2.

Attorney Ohrenberger acknowledged receipt of correspondence from an abutter and answered stated concerns referencing a deed restriction. Having expired by law, the deed restriction is null and void. Further, the deed restriction was limited to the area in Lot 1 - not Lot 2, the subject lot before the ZBA.

Mr. Bucchere further explained that even if the deed restriction had not expired the ZBA does not have the authority to enforce a private restriction.

The Board discussed the language and intention of Section 610.2B of the zoning bylaws with Attorney Ohrenberger.

The meeting was opened for public comment.

Stephanie Curtis of 579 Country Way asked if the Board was solely limited to the approval of the lot reconfiguration at this hearing.

Ms. Trezise confirmed the lot creation was the extent of the matter before the Board for this application.

Joe Brown of 5 Hatchet Rock Road expressed his concern over the existing drainage problems in the neighborhood and the impact additional construction may have.

Mr. Hallin explained that drainage issues would be addressed with Storm Water permitting and subsequent plans of management upon submission of the Building Permit application.

Lynn Donnelly of 27 Hatchet Rock Road questioned the deed restriction which states that 75' or more were to be precluded from building and that the deed has not changed from 1921 until now. Additionally, Ms. Donnelly asked if 50' was measured from the sidewalk or the street.

Mr. Bucchere explained the deed restriction has expired by statute and is not enforceable. Even if it were not expired by virtue of being less than 50 years old it is a private restriction thereby only enforceable by the party who put it in place.

Mr. Vogel stated the 50' is measured from the lot line.

There were no further questions or comments from the public.

Mr. Tibbetts moved on the application of John and Mark Sieminski to grant a Special Permit under Section 610.2B of the Scituate Zoning Bylaws to allow the creation of a lot with 50' of frontage as shown on the plan by Morse Engineering, dated June 20, 2017, conditioned on acquisition of land as indicated on aforementioned plan and submission of the Purchase and Sale agreement. Motion seconded by Mr. Bucchere. All in favor, unanimous.

Fifth Application: Christian and Kristen Putnam of 81 Glades Road, Scituate, MA request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and/or any other relief the Board of Appeals may grant and a Flood Plain Special Permit in accordance with Scituate Zoning Bylaw Section 470.6, subsequent to the purchase of 79 Glades Road, to raze the preexisting nonconforming dwelling at 79 Glades Road, Scituate, MA (Assessor's Map 5, Block 3, Parcel 20) and reconstruct an addition to 81 Glades Road, Scituate, MA (Assessor's Map 5, Block 3, Parcel 21).

Representing the Applicant: Attorney Stephen Corsaro of Tufankjian, McDonald, Welch & Sacchitella, PC.

Also present: Christian and Kristen Putnam, Applicants.

Mr. Corsaro explained the Applicants intention to purchase the property at 79 Glades Road and have a Purchase and Sale agreement in place. The Applicant currently owns the preexisting nonconforming property at 81 Glades Road and is seeking a Special Permit to raze the existing structure at 79 Glades Road and expand the home at #81 to the existing footprint at #79. Presently there is less than one foot between the properties. The proposed plan for the expansion of #81 shows a filling in of that space as well as a reduction of some nonconformities. Both properties are in the R3 residential zone. #81 is nonconforming in lot area (5500 sq. ft. where 10,000 sq. ft. are required) lot width, frontage and side yard setbacks. The property at #79 is nonconforming in all respects: frontage, lot area, lot width, front, rear and side yard setbacks.

Mr. Bucchere asked if any portion of #79 would be coming closer to the street.

Mr. Corsaro stated it would not. The proposed expansion would not exceed the existing footprint with the exception of adjoining #81. The plan shows a garage on the first floor with a living room above on the second floor. No plumbing will be installed, nor will the space accommodate bedrooms, therefore elevating the proposed structure on pilings will not be required. As the property lies in the Scituate Flood Plain, the Applicant is seeking a Flood Plain Special Permit in addition to the Special Permit to allow the expansion of #81.

The Board discussed the merger doctrine and definition of abandonment.

There were no comments from the public.

Mr. Bucchere motioned that the Board grant a Special Permit as requested by Christian and Kristen Putnam to allow the razing of the structure on 79 Glades Road and to allow an addition to 81 Glades Road to extend in to the property currently known as 79 Glades Road as shown on the plan by Fieldstone Survey Services dated June 23, 2017 and that the Board grant the Special Permit with the condition that any addition to 81 Glades Road not fall beyond the current footprint of the 79 Glades Road property as shown on said plan except for the northerly footprint of 79 Glades Road runs toward the existing structure at 81 Glades Road.

Motion seconded by Mr. Tibbetts. Also that the Board grant a Special Permit in accordance with Section 470.6 conditioned that said improvements and additions comply with Sections 1-3 of Section F. Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Minutes presented for approval.

Mr. Hallin moved to approve May 18, 2017 minutes as submitted. Motion seconded by Ms. Trezise. All in favor, unanimous.

Mr. Bucchere moved to approve June 15, 2017 minutes under the rule of necessity. Motion seconded by Mr. Tibbetts.

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

Meeting adjourned at 8:10pm.

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