

**TOWN OF SCITUATE  
ZONING BOARD OF APPEALS  
Meeting Minutes**

**September 24, 2020**

**Participated remotely: Anthony Bucchere, Chairman**

**Present (via zoom): Ed Tibbetts, Brian Sullivan and George Xixis.**

**The Scituate Zoning Board of Appeals** held a public hearing on Thursday, September 24, 2020 via zoom (remote access/participation). The meeting was called to order at 7:00 P.M. to consider the following requests:

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**First Application: (Continued from August 20, 2020) Bryan and Melanie Legge c/o Walter B.**

**Sullivan, PC at 80 Washington Street, Building B, Suite 7, Norwell, MA 02061** request a Variance to allow for the construction of a 30'x15' swimming pool and a 10' x 12' pool house on the south side of the lot closest to Parker Avenue on a non-conforming lot at **9 Moorland Road, Scituate, MA (Assessor's Map 64, Block 3, Parcel 5).**

**Mr. Bucchere** – Makes a motion to allow the applicant's request for a continuance to the October meeting of the Scituate Zoning Board of Appeals. **Mr. Tibbetts** makes a motion to accept the applicant's request for continuation. Motion seconded by **Mr. Sullivan**, all in favor, unanimous.

**Second Application: (Continued from August 20, 2020) Christopher Saccitella, Trustee of the MODD Realty Trust c/o Walter B. Sullivan, Sullivan & Comerford, PC, 80 Washington Street, Building B, Suite 7, Norwell, MA 02061** requests a Variance to allow the construction of a single family dwelling at **11 Pineview Drive, Scituate, MA (Assessor's Map 35, Block 5, Parcel 2)** on a lot which has been in existence since 1963 and contains 40,352 s.f. inclusive of uplands and land subject to M.G.L. Chapter 131, Section 40. **Representing the Applicant – Walter B. Sullivan, Sullivan & Comerford, PC, 80 Washington Street, Building B, Suite 7, Norwell, MA 02061.**

**Atty. Sullivan** – Reviewed the application and current status.

**Mr. Sullivan** – Further questions the review of the application and the hardship issues of his client. A further discussion took place between **Atty. Sullivan** and Board members with regard to the transfer of the ownership of the property by way of a trust, hardship and merger issues and further relief from the granting of a variance and that the Board does not feel they can "get over the title issue". Additionally, the wetlands issue was discussed.

**Mr. Xixis** – States he does not believe that there is any detriment to the public good from what had been submitted, states he acknowledges the hardship issue but struggles with the past intent for it to be separated and buildable.

**Mr. Sullivan** – States he understands the issues that are before the Board but cannot get past the fact that what has been presented is not a hardship.

**Atty. Sullivan** – Further addresses and rebuffs these issues.

**Meeting was opened for public comment**

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**Dave Saccitella (one of the owners/Trustees of the property)** – States his thanks for review of the application and provides some personal history of the property. States he does not see how the facts in this matter are that different from those in the surrounding neighborhood and that how “something that was once good is not good anymore”.

**Eric & Christina Solfisburg (19 Pineview Drive, Scituate, MA)** – State they submitted a letter to the board which contained their objections to this request for a variance. Reviewed their specific objections expressed in that letter.

**John Savage (owner/abutter of 5 Pineview Drive, Scituate, MA)** – Stated that he agrees in whole with Eric Solfisburg and his views.

**Mr. Sullivan** – continued to state that he does not feel this meets the standard for a variance and that he is not inclined to grant them the variance. Further discussions with Mr. Bucchere where he stated he has a little differing opinion with regard to the variance. Discussions continued with the board with regard to past decisions that had been made regarding this property at a 1987 town meeting and its bearing on this variance request.

**Mr. Sullivan** – Moved to deny the request of Christopher Saccitella, Trustee of the MODD Realty Trust for a variance under M.G.L. Chapter 40A, Section 10 for the construction of a single family dwelling at 11 Pineview Drive, Scituate. Motion seconded by Mr. Xixis for denial. Motion opposed by Mr. Bucchere. The application is not supported in this denial.

**Third Application: Martin and Ann Thomae of 11 Second Avenue, Scituate, MA 02066** request a Variance pursuant to Section 950.2C of the Scituate Zoning Bylaw and M.G.L. Chapter 40A, Section 10, and/or any other relief that the Board of Appeals may grant, to construct an addition to a pre-existing non-conforming structure on a non-conforming lot. The property is located at **11 Second Avenue, Scituate, MA (Assessor’s Map 34, Block 10, Parcel 13).**

**Martin and Ann Thomae** - Reviewed the application and current status. Ann Thomae explains she has severe arthritis and is seeking to install an endless pool and discusses setback issues and concerns.

**Mr. Sullivan** – Advises the applicant that she should withdraw their application and adjust the installation to meet the setbacks and construction can begin much sooner. Further explains the ZBA process to begin construction as requested and asks the applicant to explain how she feels she meets the standard of granting of a variance. Further discussion with board members and addressed issues with construction to a home vs. construction/installation of a pool and whether a variance and/or Special Permit/Finding is required.

**Mr. Bucchere** – Further discusses with board and applicant whether this request is an extension or an intensification of a nonconformity. Mr. Sullivan states he believes it is an intensification of a nonconformity and creating a new nonconformity. Anthony questions how it would be a new nonconformity. Mr. Sullivan argues that a new bump out would be created altering setbacks. Anthony questions whether this should be viewed as an addition to a home rather than a request for a variance and/or whether or not a variance and/or special finding is the proper request.

**Mr. Tibbetts** – Questions applicant with regard to use and issues raised by Mr. Bucchere. Mr. Tibbetts and Mr. Sullivan agree that it is irrelevant what the use is for but it is an enclosed roofed space and an extension and/or an intensification. Mr. Xixis states he understands each side of the argument and addresses whether this is a variance or a finding. Mr. Tibbetts questions the applicant as to an average for setbacks and discussed this with the applicant.

**Mr. Bucchere** – states he feels this is a Special Permit application.

**Mr. Tibbetts** - Stated to the applicant that he feels it would be best if they could provide the board with evidence that they were conforming to the average setbacks. Discussed the option of having an engineer calculate the average setback and resubmit for next meeting and/or withdraw the application and seek a building permit. Ms. Thomae confirms information provided by the board. The board discusses application bylaws.

**Meeting was opened for public comment** – no public comments.

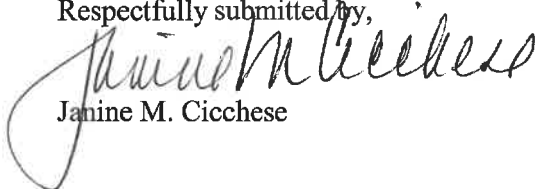
**Mr. Bucchere** – Confirmed with applicant that her options and suggestions of the board consisted of continuing the hearing to have an engineer perform the average setback calculations. If the average setback made the proposed addition conforming then relief would not be required and the application could be withdrawn and they could apply for a building permit. The board further discussed with the applicant her other option of having the board move forward and make a decision on what is before them. The board confirmed with the applicant that pending the issuance of a building permit their application before the board would still be active and continue to next available meeting. The applicant requests a continuance.

**Mr. Tibbetts** – makes a motion to allow the applicant to continue to the next regularly scheduled hearing which is on October 15, 2020. Motion seconded by Mr. Xixis, all in favor, unanimous.

Motion to adjourn by Mr. Tibbetts and seconded by Mr. Sullivan, all in favor, unanimous.

Meeting adjourned at 8:26 p.m.

Respectfully submitted by,



Janine M. Cicchese