

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

November 19, 2020

Present (via zoom): Anthony Bucchere, Chairman, Tom Cavanagh, George Xixis, and Susan Harrison (via conference phone)

Also present (via zoom): Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a public hearing on Thursday, November 19, 2020 via zoom (remote access/participation). The meeting was called to order at 7:00 P.M. to consider the following requests:

First Application: (Continued from October 15, 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). Representing the Applicant – Walter B. Sullivan, Sullivan & Comerford, PC, 80 Washington Street, Building B, Suite 7, Norwell, MA 02061 and Joseph "Jed" Hannon of Atlantic Coast Engineering, 88 Front Street, Suite 22B, Scituate, MA 02066.

Atty. Sullivan – The walkway width has changed from 5 feet to 4 feet around the perimeter of the proposed pool. Also, confirms that the previously named "pool house" is for the mechanical portion of the pool and not a pool house and that it has been repositioned. Discussed that he has done research with regard to alternative pools and has submitted videos supporting the pending application. Stated he does not believe this is detrimental to the neighborhood and that water issues previously addressed by neighbors would be addressed during construction. Discusses a recent decision similar to this matter in Woburn that was granted. Appeals to the board to grant this variance for the proposed aqua therapy pool.

Mr. Bucchere – Further discusses the variance standard and the recent Woburn decision. States he feels the Massachusetts code and the law does not allow the board to grant a variance on this application.

Atty. Sullivan – Again discusses that he and his clients do not feel this is a detriment to the neighborhood as other neighbors close by have pools and the need for aqua therapy for Maddie. Attorney Sullivan acknowledges that the burden for granting a variance is a steep one; however, he feels it is a unique situation. Mr. Bucchere directly addresses these issues and the issue that if a pool was allowed on this lot and a variance was needed to allow handicapped access to that pool then that would be a different issue but that is not what is before the board. Mr. Bucchere points out that on this property under Scituate's code no one is allowed to have a pool regardless of their physical capabilities.

Mr. Xixis – States that he also feels that he does not believe that this board has the ability to take into account Maddie's special needs for the provision of a variance based on Scituate Zoning Bylaws and code. States he does not believe the standards have been met.

Mr. Bucchere – Further reviews that standards for a variance and the needs that all must be met. Further discussions with Attorney Sullivan involve the need for a certain depth of the pool for certain therapy.

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Melanie Legge – Confirms for the board Maddie’s situation and her therapy and the need for this size and type of pool.

Mr. Bucchere – Continues to discuss the proposed requirements for depth and width for therapy with the board and Mrs. Legge.

Ms. Harrison – Asks for confirmation of lap swimming from Mrs. Legge. Also asks if a smaller pool would be considered.

Mr. Bucchere – States that after hearing all the evidence, he does not see a variance application here that he can vote for and/or that the size of any proposed pool would not matter and struggles whether the variance need has been met.

Atty. Sullivan – Asks for a continuance to the next hearing as due to Covid his clients are not able to be present and he would like to confer with them.

Meeting was opened for public comment - No public comments.

Mr. Bucchere – and the board agree to a continuance to the next meeting. Mr. Bucchere makes a motion to grant the continuance to the December meeting. Motion seconded by Mr. Xixis, all in favor, unanimous.

Second Application: (Continued from October 15, 2020) Joao and Rita Lopes of 34 Hawley 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 Bylaw and/or relief that the Board of Appeals may grant to raze detached garage and reconstruct attached two story garage on a pre-existing non-conforming lot. The property is located at **34 Hawley Road, Scituate MA (Assessor’s Map 34, Block 26, Parcel 21).**
Representing the Applicant –Paul J. Mirabito, PLS (of Ross Engineering Company, Inc.)

Mr. Mirabito – Reviewed the project description and pointed out an error in the original application. The garage is an attached garage not a detached garage. States the applicant would like to raze the current garage and rebuild a new garage with space above for storage and future living space.

Mr. Bucchere – questions the amount of living space in the above area of the garage. Confirms with Mr. Mirabito the increase would be about 420 square feet. The board further discusses the setbacks and revisions to storage/living space and layout.

Mr. Bucchere – Further discusses the application with Mr. Vogel.

Meeting was opened for public comment - No public comments.

Mr. Bucchere – and the board discuss the pending application and the possibility of limitations upon approval.

Mr. Cavanagh – makes a motion on the application of Joao and Rita Lopes of 34 Hawley Road, Scituate, MA and their request for a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaw to raze their attached garage and reconstruct a two-story attached on a pre-existing non-conforming lot. I would move that the board find that such raze and reconstruct is not more detrimental to the neighborhood and that it doesn’t intensify any existing non-conformities and with that I would make the condition that on the addition, on the second floor and even

on the first floor, that there be no living space less than 8 feet off the right property line as depicted on the plan prepared by Paul Mirabito dated September 10, 2020 of Ross Engineering. Motion seconded by Mr. Xixis, all in favor, unanimous.

Third Application: Aldona M. Hamel of 17 Old Farm Road, Scituate, MA requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6, Scituate Zoning Bylaw Section 470.6F, 810.2 and/or any other relief that the Board of Appeals may grant, to raze and reconstruct a single family dwelling on a pre-existing, non-conforming lot increasing the gross floor area by more than 20% at **17 Old Farm Road, Scituate, MA (Assessor's Map 14, Block 1, Parcel 45). Representing the Applicant – Brendan Sullivan of Cavanaro Consulting, Inc., 687 Main Street, Norwell, MA 02061.**

Ms. Hamel (applicant) - Reviewed the application and current status. Would like to raise her new home above the flood plain and make it more FEMA compliant, keep the same footprint and go up. This has been approved by the Conservation Commission. The proposed front portico is the remaining issue due to setbacks.

Mr. Bucchere – Confirms with the applicant that the portico would be covered and the setback and the possibility of the need for a variance. Further discussions with board members and Mr. Vogel. The board confirms that due to an exclusion, the proposed portico is in conformance with the front setback.

Meeting was opened for public comment - No public comments.

Mr. Bucchere – Makes a motion that the board grant the Special Permit request of Aldona M. Hamel of 17 Old Farm Road, Scituate, MA to raze and reconstruct the single family dwelling on a site plan prepared by Cavanaro Consulting dated September 16, 2020 and the board find that to the extent the proposed raze and reconstruction intensifies any existing non-conformities and that such intensification is not substantially more detrimental to the neighborhood, the board find that no new non-conformities are being created and the board find that the application satisfies the requirements of Section 470.6F. Motion seconded by Mr. Cavanagh, all in favor, unanimous.

Fourth Application: Tommy McCarthy of 49 Aberdeen Drive, Scituate, MA requests a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 810.2 to allow the razing and reconstruction of the preexisting, non-conforming single family home on a pre-existing non-conforming lot increasing the gross floor area by more than 20% at **9 Otis Road, Scituate, MA (Assessor's Map 46, Block 13, Parcel 3).**

Mr. McCarthy (applicant) - Reviewed the application and current status. The board further discusses the application.

Meeting was opened for public comment - No public comments.

Michael Arlauskas (abutter @ 10 Foam Road, Scituate, MA) – Comments that he opposes this application and feels that this would be detrimental to him and his property due to flooding. Mr. Vogel and the board addresses these issues with the abutter.

Suzanne Walsh (abutter @ 6 Foam Road, Scituate, MA) – Also concerned about drainage/flooding and increased runoff.

Mr. Bucchere – Makes a motion that the board grant the application for a Special Permit on the application of Tommy McCarthy of 49 Aberdeen Drive, Scituate, MA to raze and reconstruct a single family home at 9 Otis Road, Scituate, MA in accordance with the proposed home shown on the plan prepared by Environmental Engineering Technologies and dated April 14, 2020, that the board find the proposed home does not create any new non-conformities and to the extent that it intensifies any existing non-conformities that such intensifications are not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Cavanagh, all in favor, unanimous.

Fifth Application: Robert Struzziero of 330 Gannett Road, Scituate, MA requests a Special Permit/Finding in accordance with Scituate Zoning Bylaw Section 810.2 and/or M.G.L. Chapter 40A, Section 6 to allow the construction of a two story addition to the preexisting non-conforming single family dwelling at **330 Gannett Road, Scituate, MA (Assessor's Map 13, Block 2, Parcel 43)** increasing the gross floor area by more than 20%. **Representing the Applicant – Gregory J. Morse (Registered Professional Engineer, Morse Engineering).**

Mr. Morse - Reviewed the application and current status. The board further discusses the application.

Meeting was opened for public comment - No public comments.

Mr. Cavanagh – On the application of Robert Struzziero of 330 Gannett Road, Scituate, MA on his request for a Special Permit/Finding in accordance with Scituate Zoning Bylaw Section 810.2 and M.G.L. Chapter 40A, Section 6 that the addition to his existing dwelling as shown on the plan prepared by Gregory Morse of Morse Engineering dated October 14, 2020, that the proposed addition does not create any new non-conformities or intensify any existing non-conformities and to the extent that they do it is not substantially more detrimental to the neighborhood. Motion seconded by Mr. Xixis, all in favor, unanimous.

IV. APPROVAL OF MINUTES

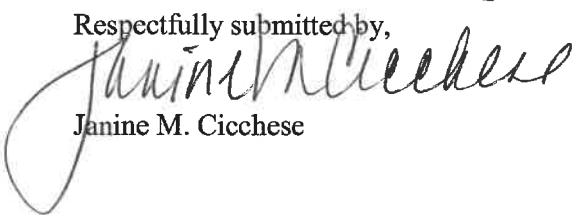
Mr. Bucchere – Moved to accept minutes for October 17, 2019, November 21, 2019, December 19, 2019, January 16, 2020, February 27, 2020 and March 19, 2020.

Mr. Bucchere – Moved to approve minutes through March 19, 2020 as submitted earlier. Motion seconded by Mr. Cavanagh. Ms. Harris abstained.

Motion to adjourn by Mr. Cavanagh and seconded by Mr. Bucchere, all in favor, unanimous.

Meeting adjourned at 8:47 pm.

Respectfully submitted by,

A handwritten signature in dark ink, appearing to read "Janine M. Cicchese", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

Janine M. Cicchese