

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

December 22, 2020

Present (via zoom): Anthony Bucchere, Chairman, Ed Tibbetts, Tom Cavanagh, George Xixis, and Susan Harrison
Also present (via zoom): Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a public hearing on Tuesday, December 22, 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 November 19, 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).**

The applicant, via applicant's counsel, requested a continuance via email on December 18, 2020.

Mr. Xixis- Moved to request a continuance on the hearing received via email. Motion seconded by Ms. Harris, all in favor, unanimous.

Second Application: Richard and Valerie Whitehouse, Trustees of 13 Blackthorne Circle, Hopkinton, MA 01748 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 allow the razing and reconstruction of a preexisting, non-conforming single family dwelling at **109 River Street, Humarock, MA (Assessor's Map 73, Block 4, Parcel 24).** **Representing the Applicant – William H. Ohrenberger, Esq. of Ohrenberger, De Lisi & Harris, LLP and Paul J. Mirabito, PLS (of Ross Engineering Company, Inc.)**

Atty. Ohrenberger - Reviewed the application and current status.

Mr. Mirabito – Reviewed further the project description and the history of the existing structure. The board discussed the application and had no questions.

Meeting was opened for public comment – No public comments.

Mr. Cavanagh – Moved to find that Richard and Valerie Whitehouse, Trustees of 13 Blackthorne Circle Trust on their request for 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 raze and reconstruct a preexisting, non-conforming single family dwelling at 109 River Street, Humarock, MA as shown on the plan prepared by Ross Engineering dated November 2, 2020 that the proposed raze and reconstruct does not create any new non-conformities and to the extent it intensifies any existing non-conformities such intensification is not substantially more detrimental to the neighborhood. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Third Application: Robert Terrell, Administrator of 129 W. Summit Avenue, Haddonfield, NJ 08033 requests a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 610.2B of the Scituate Zoning Bylaw for allow the creation of two single family lots on **Mann Hill Road (Assessor's Map 27, Block 7, Parcel 9A).** **Representing the Applicant – William H. Ohrenberger, Esq. of Ohrenberger, De Lisi & Harris, LLP and Paul J. Mirabito, PLS (of Ross Engineering Company, Inc.)** **Also Present – Robert Terrell, Applicant/Administrator of the Estate of Patsy Jo Terrell.**

Atty. Ohrenberger - Reviewed the application and current status of the project.

Mr. Mirabito – Reviewed further the project description and the history of the existing structure.

Mr. Bucchere – Referred to the memo from the Scituate Planning Board in this matter. Confirmed with the Zoning Board of Appeals board members that they had had an opportunity to review same.

Atty. Ohrenberger – Further described the pursuance of the application and reasons supporting same. Also stated that in the event of the approval of the pending application that the request for a common driveway Special Permit currently pending with the Scituate Planning Board.

Mr. Bucchere – referred to the memo from the Scituate Planning Board dated December 16, 2020 – commented to Atty. Ohrenberger that in his opinion the Scituate Planning Board did not like the new plan.

Atty. Ohrenberger – In his opinion it is a “potatoe potato” situation.

Mr. Bucchere – Clarified that the Scituate Planning Board is not in agreement with the current proposal. Opines that the proposed application did bother him “a little” as significant work has been expended on behalf of the Scituate Planning Board to process the application before them and the frontage is insufficient for even two lots per the code.

Atty. Ohrenberger – Confirmed the frontage is sufficient.

Mr. Bucchere – Further explained his view on the matter.

Atty. Ohrenberger – Further argued the issues regarding this application and referred to prior application hearing on similar matter.

Mr. Bucchere – Referred further comment to Mr. Tibbetts as he had been in attendance at prior hearing.

Mr. Tibbetts – Reviewed issues on application before the Zoning Board of Appeals. Stated he did not see a problem with what was proposed.

Mr. Cavanagh – Opined with comments of Mr. Tibbetts. Noted slight concern regarding curb cuts depending on lots and lot lines.

Mr. Tibbetts – Further addressed frontage and lot issues.

Atty. Ohrenberger – Further expressed his views on behalf of his client for simultaneous approval.

Mr. Xixis – No further comment. Noted he understood the potential issue of the abutters for the 2 foot piece and the reasoning behind it.

Atty. Ohrenberger – Noted that customarily this would be handled with an exclusive landscaping easement “so that it’s not where someone is trying to suck in their gut and walk sideways through the 2 feet”.

Mr. Tibbetts – Opined with Atty. Ohrenberger that to grant a use easement to the two lots.

Meeting was opened for public comment –

Curt Avallone of 89 Surfside Road, Scituate, MA – expressed concerns over manipulation of perc process and his property being turned into marshland due to building in abutting land to his property.

Atty. Ohrenberger – Per the State and Town of Scituate requirements things were done in a proper context. Further referred to Paul Mirabito.

Mr. Mirabito – Commented that the lot plans for Lot 4 submitted were identical to the original plans for Lot 4 submitted two years ago with the exception of out by the barn area. A septic system had been approved by the Board of Health in accordance of Title V for Lot 4 and the storm water proposed would be the opposite side of the lot from Christopher Lane. The lot can only have a single family home even though it has twice the land area. No two-family dwelling allowed on that lot.

Marla and Richard Minier of 29 Christopher Lane, Scituate, MA – The proponent previously brought this matter forward and a common driveway was previously approved and the plan was tossed to the Planning Board. The Planning Board had spent a lot of time on this issue due to the issue of the property being extremely wet. The Planning Board had

insisted that the developer create drainage options for the developer so that the houses could be built. Also, questioned manipulation by the Board for allowance of this so that the developers did not have to follow the conditions that the Planning Board had set for this extremely wet parcel. Commented on concerns regarding bringing in 5 to 9 feet of fill. Suggested that abutters were concerned about water and how much fill would be required to be brought in to make these lots developable.

Atty. Ohrenberger – Addressed Ms. Minier’s concerns with regard to storm water and further permits within satisfaction of the Town of Scituate and its consulting engineers for further issuance of building permits.

Mr. Mirabito – Clarified that this site is not a wet site, it is all upland area. Tests that were performed for ground water elevations were determined by soil modeling, septic systems were mounded to meet the new Title V rules and regulations. Commented that any fill that would be brought in would be due to requirements/regulations and there would not be 9 feet of fill on this property anywhere due to costs. No further comments.

Mark D’Onofrio of 25 Mann Hill Road, Scituate, MA – Had seen a previous version of this plan but had not seen a recent version. Confirmed that it was his understanding the project is to go to three driveways vs. to a common driveway plus a second. His concern was focused around the curb cuts and where they would be as his property is directly across the street and due to current traffic.

Mr. Mirabito – A proposed driveway was noted on the septic plan, the one in the middle lot may be moved. Referred to site plan and property lines. Property is located on the opposite side of the street and on a curve. Wherever the driveways will be will not pose a sight distance problem. Cannot confirm exactly where Mr. D’Onofrio’s driveway is in relation to the proposed but confirms the sight distance for these three driveways will be very good because of the curved shape we are coming out onto.

Mr. D’Onofrio – Did not disagree that the sight lines from the other side of the street were fine but the sight lines on his side of the street were bad. When he backs out of his driveway its harrowing for cars coming up on the south(?). He was concerned that the curb cut for the newly created lot on the other side of the street was directly across the street from his curb cut and would cause additional concern as far as traffic. Commented he did not necessarily have any concerns but would like to be able to have an opportunity to see where the curb cuts may be and whether they could be offset to some degree to avoid direct conflict between cars entering and leaving the area.

Mr. Mirabito – Confirmed he does not know exact location of his driveway but felt he may be able to accommodate the request.

Ms. Minier – Asked that the Board travel to Mann Lot Road for a site visit to see what they were acting on.

Mr. Bucchere – Comments that it is common for the board members to visit a site and are generally familiar with the town as town residents and have familiarity with the sites.

Mr. Bucchere – Motion on the application of Robert Terrell of 129 W. Summit Avenue, Haddonfield, NJ requesting a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 610.2B of the Scituate Zoning Bylaw to create two fifty foot frontage lots, really lots of less than 100 feet of frontage being Lot 4 and Lot 6, shown on a Plan prepared by Ross Engineering and dated November 12, 2020 for the property along Mann Hill Road and that the board find that the creation of those two lots does comply with Section 610.2B of the Bylaw and I think that it is probably useful that the board also find that Section 610.2B (2) does not apply to this particular application. Motion seconded by Mr. Tibbetts. All in favor. Unanimous.

IV. APPROVAL OF MINUTES

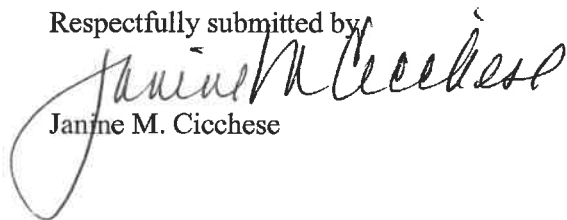
Mr. Xixis – Moved to accept minutes for October 17, 2019, November 21, 2019, December 19, 2019, January 16, 2020, February 27, 2020 and March 19, 2020.

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

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

Meeting adjourned at 7:53 pm.

Respectfully submitted by

A handwritten signature in cursive script, reading "Janine M. Cicchese". The signature is written in dark ink and is positioned to the left of the printed name.

Janine M. Cicchese