

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

June 17, 2021

Present: Anthony Bucchere, Chairman, George Xixis and Susan Harrison

Also present: Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a public hearing on **Thursday, June 17, 2021** in the Scituate Town Hall located at 600 Chief Justice Cushing Highway. The meeting was called to order at 7:00 P.M. to consider the following requests:

First Application: (Continued from May 26, 2021) Andrew Spath-Stockbridge Properties, LLC of 41 Cavanagh Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 to allow the expansion and intensification of a pre-existing, nonconforming structure at **106-108 Stockbridge Road, Scituate, MA 02066 (Assessor's Map 54, Block 2, Parcel 25)**. **Representing the Applicant – Stephen Rider, Esq., 30 Lincoln Street, Hingham, MA 02043.**

Mr. Bucchere – recapped from May 26, 2021 meeting that the main pieces of information the board was looking for at this meeting was more information on the number of trucks and employees at the site and the potential for buffers.

Attorney Rider – stated Mr. Spath had provided the board with an updated plan regarding the building of a berm (+/- 10 feet) between his property and the property next door with the condo duplex. The plan showed the location where the berm would go. Mr. Spath, after meeting with neighbors, was open to installing a berm with arborvitae as discussed to help with any dust and/or possibly block full or partial view of the Quonset hut.

Mr. Xixis – questioned that it appeared from the most recent plan that the berm would straddle the property line, which was confirmed by Attorney Rider. Mr. Bucchere noted that there is nothing that the board could do to eliminate the fact that this property is a nonconforming use and there is nothing that the board can do to make this nonconforming use not be there but the board is looking for reasonable mitigation. Mr. Bucchere also pointed out that the issue remained of whether or not there has been an intensification of nonconforming use that is substantially more detrimental to the surrounding neighborhood.

Mr. Bucchere – asked Mr. Spath how many people he currently employs. He responded approximately 14-15 total; however, noted was that not all 14-15 employees are at that location on a daily basis as the address is considered a “home base” and crews may possibly go to directly to a jobsite. With regard to the number of trucks, Attorney Rider and Mr. Spath agree that there are times when there are more than 33 industrial vehicles on the property (including but not limited to employee vehicles, boats and company equipment). If more than 33 vehicles are present at any time, an intensification exists. More specific details are requested of Mr. Spath regarding number of vehicles. Mr. Spath indicated he owns approximately 50 pieces of equipment/trucks but those are spread over approximately five different sites and not all of those are at the Stockbridge site daily. The issue of whether or not it is substantially more detrimental is discussed. The purpose of the Quonset hut was to be able to bring some of this equipment

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inside for maintenance and repair. Exterior lighting is in use throughout the property. Mr. Bucchere discussed with Mr. Spath that the shadow line of the lighting should not be outside of the property and suggested to Mr. Spath that he may want to check the angle of those lights. Mr. Bucchere reiterated that Mr. Spath was/is before the board to get the proper permit for the building of the Quonset hut and the board is here to fix this matter and keep this process moving in the right direction.

Meeting was opened for public comment

Robert Dillon (abutter @ 134 Stockbridge Road, Scituate, MA 02066) and David Sturgeon (son-in-law of Robert Dillon – not a Scituate resident) – reported to the board that on June 16, 2021 they met with Mr. Spath and his attorney and reviewed the updated plan, which they referred to as “rudimentary” and little specificity regarding location, materials etc. and the request to extend the berm to the full property line. The wetland buffer was addressed. Mr. Vogel discussed the buffer zone and issues with the conservation commission. Mr. Sturgeon requested to have the spotlights redirected. Mr. Spath reported that these lights are for security purposes. Mr. Sturgeon further addressed the processing that is being done at Mr. Spath’s site and how subcontractors and/or lessors would be handled and also how the deintensification is classified. The board and Mr. Sturgeon discussed the intensification issue. Mr. Bucchere asked Mr. Sturgeon to confirm his statement that he felt there had been an intensification on this site and that it was related to the building of the Quonset hut on this site. Mr. Sturgeon went on to say that vibrations of the Dillon home and tailgate banging.

Glenn Keith (11 Woodworth Lane, Scituate) – at the meeting in support of Mr. Dillon and stated he felt issues started at this site when Site Pro took over and expanded the business. Mr. Keith felt that noise, air and light pollution has been affected by Mr. Spath’s business, caused stress and loss of enjoyment of the Dillon’s home.

Salvatore (Sal) Mucci (abutter @ 143 Stockbridge Road, Scituate) – stated noise continues to be terrible and trucks travel in that area at a high rate of speed.

Michael (Mike) Adams – (108 Edward Foster Road, Scituate) – (friend of Jeanne Mullin) – commented that he was also part of the discussion with Mr. Spath and his attorney the day prior to the meeting on behalf of Ms. Mullin. Mr. Adams stated that he has witnessed an intensification and migration toward the backyards of the abutters due to the proximity is much closer. He also noted that the space that occupies the Quonset hut has displaced equipment to other areas on the property and facilitated more activity on the site.

Mr. Bucchere – discussed with Mr. Spath specifics regarding the proposed berm, which will consist of a 10-foot berm with fill/loam covering (dirt foundation along top) which will be able to support arborvitae planted that overtime will serve as further screening at top of the berm. Mr. Spath agreed to maintain the berm and plantings as a condition to the special permit. Regarding location, the board felt that the berm should exist solely on Mr. Spath’s property until and unless an easement is granted in the future from an abutter. An updated and previously unsubmitted plot plan was produced by Mr. Spath which showed a separate but adjoining property to the parcel which is the subject of this application. Mr. Spath reported that this separate parcel had always been part of his yard since he purchased it in 2016. The board and Mr. Vogel commented that the separate parcel would also fall under the special permit conditions and the site plan submitted did not include all of the land that consists of Site Pro. Mr. Bucchere requested to extend this matter and at which time an engineered plan that fully shows current, deeded lot lines of all of the land controlled by Site Pro. Mr. Bucchere also requested additional information beyond building on the property (mounds, equipment storage, buildings on the additional lot, etc.). Mr. Xixis suggested to Mr. Spath to have further conversations with the abutters.

Mr. Bucchere – moved for a continuance to the next available meeting. Motion seconded by Ms. Harrison, all in favor, unanimous.

Second Application: Michael West of 6 Hatchet Rock Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow for the construction of an addition to a pre-existing, nonconforming single-family dwelling at **6 Hatchet Rock Road, Scituate, MA 02066 (Assessor's Map 26, Block 2, Parcel 42)** 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. The existing home on the property was constructed in 1947. The lot is nonconforming with respect to area and width. The application proposes a two-story addition onto the existing home. The addition complies with all setbacks to the front, side and rear and there will be no changes to the lot area. The lot width will be slightly reduced. There will be a 57% increase in gross floor area. No bedrooms will be added during construction.

Meeting was opened for public comment – no public comment.

Mr. Bucchere – made a motion that the board grant a special permit for the addition on the property located at 6 Hatchet Rock Road, Scituate shown on a plan drawn by Morse Engineering dated April 21, 2021 and find that no new nonconformities are being created and to the extent that any existing nonconformities are being intensified such intensifications are not substantially more detrimental to the surrounding neighborhood. Motion seconded by Ms. Harrison, all in favor, unanimous.

Third Application: Robert E. and Susan M. Flaherty of 10 Cliff Avenue, Scituate, MA 02066 request an Appeal pursuant to M.G.L. Chapter 40A, Section 7 and/or Section 920.2 of the Scituate Zoning Bylaw of the Zoning Enforcement Officer's/Building Commissioner's ("ZEO") failure to act on the appellant's request for zoning enforcement of the parcel located at **0 Cliff Avenue, Lot 64-5-2, Scituate, MA 02066 (Assessor's Map 64, Block 5, Parcel 2).**

Mr. Bucchere – this application has been withdrawn. Mr. Bucchere moved to allow this withdrawal without prejudice. Motion seconded by Mr. Xixis, all in favor, unanimous.

Fourth Application: Derek Delmonico, individually and Tracey J. Delmonico, Trustee of the Tracey Delmonico 2004 Trust of 13 Circuit Avenue, Scituate, MA 02066 request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to raze the existing, nonconforming single-family dwelling on a pre-existing nonconforming lot at **13 Circuit Avenue, Scituate, MA 02066 (Assessor's Map 50, Block 1, Parcel 20-0)** and to reconstruct said dwelling with a fully dimensionally conforming dwelling which completely eliminates an existing nonconforming setback and does not intensify an existing nonconformity, but which increases the gross floor area by more than 20%. **Representing the Applicant - Jeffrey DeLisi, Esq., Ohrenberger, DeLisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066.**

Atty De Lisi – reviewed the application. The existing structure was constructed in 1930. This property does not meet the required front yard setback. No new conformities were proposed and the buildings front yard nonconformity is hoped to be eliminated so that the new structure will be entirely compliant. Conservation approval has issued.

Meeting was opened for public comment – no public comment.

Mr. Xixis – on the application of Derek Delmonico, individually and Tracey J. Delmonico, Trustee of the Tracey Delmonico 2004 Trust of 13 Circuit Avenue, Scituate, MA 02066 on 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 the existing nonconforming single-family dwelling on a preexisting nonconforming lot and to reconstruct said dwelling with a fully dimensionally conforming dwelling which completely eliminates the existing nonconforming setback we find that the application does not intensify any existing nonconformity and to the extent that any existing nonconformity is intensified it is not substantially more detrimental to the surrounding neighborhood. The improvements are shown on a plan by Grady Consulting dated February 26, 2021 and the application was asked to update the file to include the proposed livable square feet. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Fifth Application: Joseph G. Gauquier of 24 Hatchet Rock Road, Scituate, MA 02066 requests a Variance in accordance with M.G.L. Chapter 40A, Section 10 and/or any other relief that the Board of Appeals may grant, to allow the construction of a covered front entryway to the pre-existing, nonconforming single-family dwelling at **24 Hatchet Rock Road, Scituate, MA 02066 (Assessor's Map 26, Block 2, Parcel 39)**. **Representing the applicant – Lydia Gauquier (applicant's wife).**

Mrs. Gauquier – explained that her and her husband wished to add a covered front entryway to their home and there is a difference of a few feet discrepancy from the setback and their property line. The Gauquier's property currently is dimensionally nonconforming in the rear. They are seeking to build in the front which would extend them beyond the 30-foot setback. Lydia further explained that the home is congested and the entryway would provide extra space for a pronounced front entryway. A letter in support of this proposed project from a direct neighbor was submitted to the board.

Mr. Bucchere – explained there is a high standard for the issuance of a variance and further explained. The average setback for this neighborhood would not help the applicant in this instance. Mr. Bucchere asked Lydia to explain the circumstances that would warrant a variance. Mr. Bucchere explained that while Mrs. Gauquier's reasons for the variance made sense, they did not meet the standard for a variance. Mr. Bucchere provided further examples of variance standards. The board discussed weather exposure to the front of the home; however, the board continued to agree this application did not meet the variance standard.

Meeting was opened for public comment – Jeff De Lisi commented that he feels the board should be open to variances and that this applicant is stating a hardship. The board again feels that the variance standards have not been met.

Mr. Bucchere – explained to Mrs. Gauquier that her options were for the board to rule, to withdraw the application or to ask for a continuance for another look at the next meeting and she would not have to reapply. Mr. Vogel commented that as frustrating as it is he would like to be able to provide the applicant with an answer of some sort but agreed that this application, as previously stated, does not meet the standard. Mr. Greg Morse also stated that she may want to reevaluate the average setback on the street. Mrs. Gauquier asked for a continuance in this matter. Mr. Bucchere moved for a continuance at 24 Hatchet Rock Road, Scituate and this matter will be continued to the next meeting on July 15, 2021. Motion seconded by Mr. Xixis, all in favor, unanimous.

Sixth Application: Walter B. Sullivan, Trustee of the 50 Collier Road Realty Trust u/d/t Dated August 24, 2016 of 80 Washington Street, Building B, Suite 7, Norwell, MA 02061 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 to allow the construction of an addition to the single-family dwelling located at **50 Collier Road, Scituate, MA 02066 (Assessor's Map**

64, Block 9, Parcel 16). The premises are pre-existing, nonconforming in lot size and front setback due to the nature of the premises being a corner lot. **Representing the Applicant - Walter B. Sullivan, Esq., 80 Washington Street, Building B, Suite 7, Norwell, MA 02061 and Gregory J. Morse (Registered Professional Engineer, Morse Engineering).**

Atty. Sullivan and Mr. Morse— reviewed the application. The proposed application is for the addition of a 1300 square foot addition. The current home is on the corner of Collier Road and Brown Avenue on a 6,000 square foot lot. The lot is nonconforming to the front yard setback on Collier Road but is conforming to the average front yard setback on Brown Avenue. The addition would be a two-story addition and no changes would be made to the two nonconformities. The addition would represent a 81.8% increase.

Meeting was opened for public comment – no public comment.

Mr. Bucchere – made a motion that the board find that the proposed addition at 50 Collier Road, Scituate as shown on the Morse Engineering plan dated May 6, 2021 does not create any new nonconformities and to the extent that it intensifies any existing nonconformities that such intensification is not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Xixis, all in favor, unanimous.

Seventh Application: Maryanna V. Ryan of 23 Vinal Avenue, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810 of the Scituate Zoning Bylaw for a two-story addition, including an accessory dwelling, to a pre-existing, nonconforming single-family dwelling located at **23 Vinal Avenue, Scituate, MA 02066 (Assessor's Map 50, Block 9, Parcel 5)** 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. This proposed application is for a second story addition within the building envelope and within the existing footprint. Mr. Bucchere and Mr. Vogel confirmed that the pending accessory dwelling application will be reviewed by the planning board. Mr. Morse submitted two letters of support from direct abutters to the board.

Mr. Bucchere – this application is before the board due to the nonconformities of the lot. 76.8% square footage will be added to the dwelling with this addition.

Meeting was opened for public comment –

Jeffrey Kalla (28 Kent Street, Scituate, MA) – questioned whether this addition would change designation to a multiple family. Mr. Bucchere explained that the classification would be single-family dwelling with an accessory dwelling.

Russell Paulin (24 Vinal Avenue, Scituate, MA) – stated his support for approval of this application.

Mr. Bucchere – made a motion that the board find that the addition shown on a plan drawn by Morse Engineering dated April 21, 2021 and revised June 7, 2021 does not create any new nonconformities and to the extent that it intensifies any existing nonconformities such intensifications are not substantially more detrimental to the surrounding neighborhood. Noted was the fact that the board acknowledged that this application included an accessory dwelling, which will be reviewed for approval by the planning board. Motion seconded by Mr. Xixis, all in favor, unanimous.

Eighth Application: K & E Construction, c/o Ed Johnson, 209 Broadway, Hanover, MA 02339 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2 of the Scituate Zoning Bylaw to allow the razing and reconstruction of a pre-existing, nonconforming single-family dwelling at **14 Town Way, Scituate, MA 02066 (Assessor's Map 60, Block 1, Parcel 15)** increasing the gross floor area by more than 20%. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering).**

Mr. Morse – The existing house was constructed in 1920. The proposal is to take this house down and construct a new dwelling. The lot is nonconforming. The proposed house is fully dimensionally conforming. The proposed home will be 3108 square feet, the existing is 1946, which represents a 60% increase.

Meeting was opened for public comment –

Joseph Kelley (16 Town Way, Scituate, MA) – expressed concern over demolition of the current home and the procedure. Mr. Vogel explained the process.

Richard Garber (7 Bassin Lane, Scituate, MA) – expressed his concern that the new home would be closer to his home and would be positioned higher on the property and wondered if the board took this information into consideration. Mr. Bucchere explained that the application for the new dwelling is in compliance with the rear setbacks and height regulations as set by the town.

Mr. Bucchere – made a motion that the board find that the raze and reconstruction as shown on a plan drawn by Morse Engineering dated May 13, 2021 does not create any new nonconformities, eliminates a side setback, lessens the lot width nonconformity and to the extent that it intensifies any existing nonconformities such intensifications are not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Xixis, all in favor, unanimous.

Ninth Application: David J. and Catrina M. Dirubbo of 4 Cliff Estates Road, Scituate, MA 02066 request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 800 of the Scituate Zoning Bylaw to raze and reconstruct an existing nonconforming, single-family dwelling located at **4 Cliff Estates Road, Scituate, MA 02066 (Assessor's Map 8, Block 7, Parcel 4C)** increasing the gross floor area by more than 20%. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and Adam Brodsky, Esq., Drohan Tocchio & Morgan PC, 175 Derby Street, Hingham, MA 02043, Eric Garber (Acella Construction Corporation), Kurt Graber (architect).**

Atty. Brodsky – the former dwelling on the lot was conforming except with respect to front setback. The Dirubbo's obtained an Order of Conditions and a building permit to renovate the dwelling. A zoning application was submitted for approval of a front portico and was withdrawn as revised plans were to be submitted. The former home on the property was demolished upon starting work on their home prior to obtaining a special permit. The foundation still remains. This application essentially represents a raze and reconstruction of the home vs. an addition. A local contractor had initially agreed to handle construction and backed out at the last minute and Acella Construction stepped in to do the work. Upon starting the demolition, they discovered significant damage to the structure and determined under the building code that it was appropriate to take the building down; however, this was done without approval and/or discussion with the Building Commissioner. This application is now before the board as a raze and reconstruct but acknowledged the building does not currently exist.

Mr. Morse – The proposal for the new house is to rebuild the house largely on the existing foundation with the exception of a small additional piece of foundation. The floor area of the former house was 4,464 and the proposed dwelling will be 5,629, which will represent a 26.1% increase.

Mr. Xixis – questioned if the proposed dwelling was close to the height requirement. The height is within requirement.

Meeting was opened for public comment –

Joseph Sammartino (abutter @ 41 Glades Road, Scituate, MA) – Mr. Sammartino questioned the actual square feet of the former home as provided as it did not match what was on the assessor's card. Kurt Graber noted that the exact footage was unable to be measured/provided as the home was already demolished but were calculated the best they could, which may have included the previous garage. Mr. Sammartino additionally questioned the site of the proposed driveway and the front portico.

Michael and Martha Corcoran (abutter @ 6A Cliff Estates Road, Scituate, MA) – asked if it mattered if it was intentional or not intentional. The board further explained that they felt that there were clearly no abandonment concerns. Mr. Corcoran asked that the town stay on top of development of the new home. Mr. Corcoran also asked for details about the front entry way and Kurt Graber discussed that with Mr. Corcoran. Martha Corcoran asked whether anything in the marsh would be disturbed and/or cut down. Attorney Brodsky explained that all work would be adhered to per the Order of Conditions that had been issued by the Conservation Commission.

Martha Pillsbury (abutter @ 8 Cliff Estates Road, Scituate, MA) – asked about changes to the current foundation. Mr. Morse explained that there would be a small bump out added. Ms. Pillsbury questioned the digging for this new bump out and the proximity to the marsh. Mr. Bucchere and the board explained that there were regulations that would have to be followed.

Richard Shea (abutter @ 39 Glades Road, Scituate, MA) – stated that utilities (cable, power, water etc.) are located at the corner of this lot for several of the homes in the neighborhood (in a public easement). The neighborhood has experienced several outages due to construction and asked if there will be further interruptions. Mr. Bucchere explained that issue was outside of the Zoning Board jurisdiction.

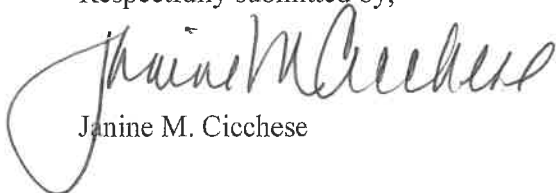
Mr. Bucchere – made a motion that the board find that the proposed raze and reconstruction at 4 Cliff Estates Road as shown on the Morse Engineering plan dated April 6, 2021 and revised May 13, 2021 does not create any new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Xixis, all in favor, unanimous.

ADJOURNMENT

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

Meeting adjourned at 10:12 pm.

Respectfully submitted by, •



Janine M. Cicchese