

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

August 19, 2021

Present: Anthony Bucchere, Chairman, Susan Harrison, Justin M. Marks, Christopher Carchia
Also present: Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a public hearing on **Thursday, August 19, 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:

ADDITIONAL BUSINESS:

47 Town Way Extension, Scituate, MA 02066 – request for extension of the Special Permit for this property for an additional year until October 3, 2022.

Atty. Jeff De Lisi – submitted a letter to the board for a request for an extension. Permitting on this matter has taken over 15 months to pursue and this is the reason for the request.

Mr. Bucchere – Mr. Vogel had no issues with this request. Mr. Bucchere moved to grant the extension of the Special Permit to October 3, 2022 and not to be further extended. Motion seconded by Ms. Harrison, all in favor, unanimous.

First Application: Heather and Steven Marshall, 17 Nelson Road, 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 allow the razing and reconstruction of a pre-existing, nonconforming single-family dwelling at **17 Nelson Road, Scituate, MA 02066 (Assessor's Map 28, Block 21, Parcel 14)** and increasing G.F.A. over 20%.

Heather Marshall – reviewed the application. This project is for a raze and rebuilt of a single-family dwelling and will be on the same footprint. The existing home was built in 1925 in a bungalow style. The existing foundation would not support adding a second floor so a proper foundation will be added. No changes in access to the site and there will be no garage.

Mr. Bucchere – confirmed that the home will go from 1350 square feet to 3134 square feet, which would be a 132% increase. The new dwelling would be a three-story home including the walk-out basement. Mr. Vogel asked if this matter has been approved by Conservation Department, which it has. Ms. Marshall confirmed that the existing studio is built and will remain and serve as a shed.

Meeting was opened for public comment –

Eric Garber (abutter @ 15 Nelson Road, Scituate) – stated he is not opposed to the project; however, he does have some concerns. The Marshall's property is two feet from his property line and he has concerns during construction. Ms. Marshall provided a prepared logistics plan addressing some of these

issues. This logistics plan was also reviewed by the board. An agreement between these two parties will have to be established as at some point during construction Mr. Garber would have to consent to building equipment being partially on his property as the property lines are very close. Mr. Bucchere and Mr. Vogel advised that this agreement would be a civil matter and not involve the town.

Mr. Bucchere – made a motion that the board approve the Special Permit request for the razing and reconstruction of the home on 17 Nelson Road, Scituate, MA 02066 to be constructed in accordance with the application and in the same footprint as shown on the plan prepared by James McGrath and dated January 10, 2021. Motion seconded by Ms. Harrison, all in favor, unanimous.

Second Application: Alison Sheerin, 48 Captain Peirce Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 610.2(B) of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to modify lot lines approved by the Scituate Zoning Board of Appeals Special Permit on November 15, 2018 at **48 Captain Peirce Road, Scituate, MA 02066 (Assessor's Map 27, Block 3, Parcel 16A)**. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering).**

Mr. Morse – reviewed the application. A Special Permit was issued by this board for this residence in 2018 to create the lot. The lot is a 50-foot frontage lot (twice the minimum land area and half of the required frontage). The applicant would like to change the lot lines and the proposal is to do a 1:1 land swap with the direct abutter, Chris Ford. Parcel A (600 square feet) would be conveyed from Mr. Ford to Ms. Sheerin and in return Parcel B would be conveyed from Ms. Sheerin to Mr. Ford. This would not affect the land area of the Special Permit lot and does not affect the frontage.

Mr. Bucchere – states that access would not be affected. Ms. Harrison and Mr. Vogel had no comment.

Mr. Carchia – asked why the lots were initially drawn that way to begin with. Mr. Morse provided an explanation, which focused on an old lot line consisting of an old stone wall.

Meeting was opened for public comment –

Christopher Ford (abutter @ 44 Captain Peirce Road, Scituate) – stated he is supportive of what has been presented.

Ms. Harrison – made a motion to approve a Special Permit finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 610.2(B) of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to modify lot lines approved by the Scituate Zoning Board of Appeals Special Permit on November 15, 2018 to the lot lines on the survey dated July 14, 2021. Motion seconded by Mr. Bucchere, all in favor, unanimous.

Third 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 and/or any other relief that the Board of Appeals may grant, to allow the razing and reconstruction of a pre-existing, non-conforming single-family dwelling at **4 Bassin Lane, Scituate, MA 02066 (Assessor's Map 60, Block 1, Parcel 38)** and 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 application is for a raze and reconstruction. The current home on the property was built in 1929 and is approximately 1,032 square feet. The home complies with zoning setbacks and the nonconformity is the lot with respect to frontage and width. It does not have

frontage on Bassin Lane but is accessed by a ten-foot-wide right of way and fronts on the eastern side of the property on the Atlantic Ocean. The existing home would be taken down and a new home would be constructed, which would be approximately 3,134 square feet with an increase of 203% in size. The new home would be further west on the property, closer to Bassin Lane. The new home would comply with all setbacks for side and three of the lot lines – the frontage would not change with the new house. The lot width would be brought into greater compliance with moving the house further west on the property.

Mr. Bucchere – An uncovered deck is proposed for the new house and will be at an elevation and would not have to comply with the 8-foot setback. Mr. Carchia asked for confirmation of where the access/driveway would be and his concern regarding the closeness of the homes to each other and the existing street. Mr. Bucchere explained the setback requirements in specific zones. No comments from Ms. Harrison and Mr. Vogel.

Meeting was opened for public comment –

Maura Maloney (abutter @ 6 Bassin Lane, Scituate) – described the setting in the direct area. The right of way described above is on her property. She has specific concerns regarding a seven-foot-high retaining wall that is owned by 4 Bassin Lane, which in her opinion has not been maintained and is very closed to her home. Ms. Maloney also has concerns regarding flooding. She is concerned that if this application was allowed it would intensify the existing nonconformities and create additional nonconformities. Mr. Bucchere states the retaining wall sounds like a personal property issue, impervious surfaces issue – the filing with conservation will address the storm water drainage/permit issues, relocation of telephone pole – utility pole location is not of concern to this particular board, the intensification of existing new nonconformities and the creation of new ones – the plan submitted in an exact plan as to location of the new home; however, a construction plan has not yet been finalized, which may include more utility information etc.

Rich (abutter @ 1 Bassin Lane, Scituate) – stated that he feels that the character of the proposed home and its size will not fit with the character of Bassin Lane. Mr. Bucchere stated that all setbacks do and will comply with the proposed home. Mr. Bucchere goes on to state that there is no “variable setback” due to the size of the home.

Kathryn Robinson (abutter @ 3 Bassin Lane, Scituate) – states she has concerns regarding her sump pump that runs almost daily and the displacement of the drainage from the cliff down. Also has concerns with regard to truck traffic during construction. Mr. Bucchere stated that water concerns will be addressed through conservation.

John Dinand (abutter @ 2 Bassin Lane, Scituate) – concerns over the right of way during construction. Mr. Morse did confirm that the right of way is necessary to get to Mr. Dinand’s property. A petition has been filed to revise the right of way, which is pending in land court. Mr. Dinand had questions regarding the establishment of lot lines in 1982 for this lot. It was determined after review of a plan produced by Mr. Dinand that grandfathering is not lost when you make something less nonconforming which was the case in this instance. The lot was amended in 1982 but to add additional land to it not to create a nonconforming lot. Mr. Dinand also addressed his concerns regarding traffic in the area during construction.

Mark Dickinson (abutter @ 8 Bassin Lane, Scituate) – had a question regarding the drainage issue and who would be responsible for proper signoffs. Mr. Morse stated that that would be addressed with conservation.

Mr. Bucchere – made a motion that the board grant the special permit request for the razing and reconstruction of the home shown on the plan drawn by Morse Engineering and dated July 15, 2021 and that the board find that said proposed home does not create any new nonconformities and that to the extent that it intensifies any existing nonconformities such intensifications are not substantially more detrimental to the surrounding neighborhood. Motion seconded by Ms. Harrison, all in favor, unanimous.

Fourth Application: Christopher S. and Barbara M. Horne, 46 Hollett Street, Scituate, MA 02066 request a Special Permit/ Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 610.2(B) of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow the creation of a lot with less than the required 100 feet of frontage at **46 Hollett Street, Scituate, MA 02066 (Assessor's Map 13, Block 1, Parcel 4). Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering).**

Mr. Morse – reviewed the application. This application is before the board for the development of a 50-foot frontage lot. The lot has 164 feet of frontage along Hollett Street and consists of 61,396 square feet of land (all upland - no wetlands or flood plain). The proposal is to develop this property with a 50-foot frontage lot – lot 1 would be the 50-foot frontage lot with a total of 41,366 square feet of upland. The existing house would remain on lot 2, which would have 114 feet of frontage and 20,030 square feet of land. The home on lot 2 was built in 1910. The plan notes that development of this property would be subject to the granting of a common driveway by the Planning board.

Mr. Bucchere – asked Mr. Morse for confirmation as to relief for lot 2. Mr. Morse stated that lot 2 is nonconforming as to lot width. Issues for the Planning board would include less impervious area and one curb cut. Mr. Bucchere explained to the new board members that in this situation leeway could be given on frontage and get leeway on lot area and the lot can no longer be further subdivided. Mr. Carchia discusses the common driveway issue. Mr. Bucchere stated that if this application is approved for the creation of the 50-foot lot as a buildable lot, that approval will be pending the Planning board granting a common driveway which will make lot 2 a viable lot – lot 1 cannot be created unless lot 2 is a viable lot and lot 2 cannot be created and be a viable lot without a common driveway or without something that the board isn't thinking of yet.

Mr. Vogel – questioned that by approving lot 1, lot 2 would then not meet zoning requirements. Stated it was his understanding that you could not subdivide a piece of property such that an existing house remained on a noncompliant lot or a noncompliant lot was created on which an existing house exists and remains. Mr. Bucchere and Mr. Morse state that the Planning board would authorize the creation of the lot. The Special Permit process for the common driveway would have to be heard first prior to creating that lot. Mr. Bucchere confirms the process as – the creation of this 50-foot lot application goes before the Zoning Board of Appeals (the one area where zoning creates lots), but even when the Zoning board does create them if the lot that is left was fully compliant (which it is not here), an A & R (approval not required) would be required from the Planning board. In this instance, the Planning board would say that approval for an A & R would not be granted and a separate hearing would be required for moving the common driveway. Mr. Morse confirmed there are no intentions at this time to touch the house that exists on lot 2.

Meeting was opened for public comment –

Herbert Stelzer (abutter @ 34 Hollett Street, Scituate) – asked the board to confirm the frontage and common driveway issue. Mr. Bucchere reviewed and answered questions.

Ralph Bates (abutter @ 32 Hollett Street, Scituate) – reviewed property line and septic system questions with the board.

Joann Taft (74 Brook Street, Scituate) – reviewed common driveway and frontage questions with the board.

Kevin Krawiec (abutter @ 39 Hollett Street, Scituate) – discussed the common driveway issue with the board.

Bennett Weintraub (16 Three Ring Road, Scituate) – questioned the location of the home on the new lot. Setbacks were reviewed with the board and Mr. Vogel for possible future location.

Kimberly Menzel (15 Three Ring Road, Scituate) – stated her concerns regarding privacy and removal of vegetation between properties.

Mr. Bucchere – made a motion that the board find that the proposed lot 1 on a plan by Morse Engineering dated July 15, 2021 complies with 610.2 of the Scituate Zoning Bylaw and the board grant the required Special Permit pending approval of said plan by the Planning Board, including whatever other relief the Planning Board may deem necessary. Motion seconded by Ms. Harrison, all in favor, unanimous.

APPROVAL OF MINUTES:

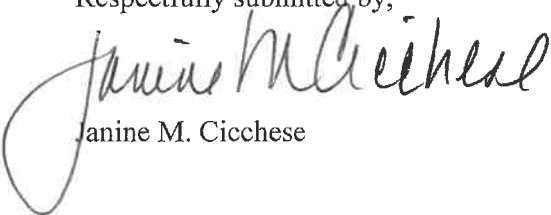
Mr. Bucchere – approval of pending minutes will be postponed to the next available meeting of the Scituate Zoning Board of Appeals.

ADJOURNMENT

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

Meeting adjourned at 8:45 pm.

Respectfully submitted by,



Janine M. Cicchese