

TOWN OF SCITUATE
ZONING BOARD OF APPEALS
Meeting Minutes

October 21, 2021

Present: Anthony Bucchere, Chairman, George Xixis, 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, October 21, 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: Susan DiPesa, 537 Hatherly 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 the construction of an addition to a pre-existing, nonconforming single-family dwelling at **537 Hatherly Road, Scituate, MA 02066 (Assessor's Map 14, Block 2, Parcel 18)** 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 home was built in approximately 1905 with 12,874 square feet in size and located in an R-3 Zone. The lot is nonconforming with respect to frontage and otherwise conforming. The proposal is to add an addition off the south side of the house and a very small addition on the north corner as well. The existing home is 1,934 square feet and with the addition will be 2,964 square feet, which will be a 53% increase.

Mr. Bucchere – everything remains within the building envelope.

Mr. Vogel – stated the home may be subject to review by the Historical Commission and falls within the FEMA Flood Zone and is in the Flood Plain and Watershed Protection District. Where the proposal is a substantial improvement to the home the house has to be elevated or modified to meet FEMA flood elevation requirements. These requirements would be the end result of any project that was valued at over 50% of the appraised or assessed value of the existing structure.

Mr. Morse – commented that the applicant is actively involved in the appraisal process and are aiming to stay under the 50% threshold so that it is not considered a substantial improvement to the home.

Meeting was opened for public comment – no public comment.

Mr. Bucchere – made a motion that the board find that the proposed addition shown on a plan prepared by Morse Engineering and dated August 20, 2021 does not create any new non conformities and to the extent that it intensifies any existing nonconformity such intensification is not substantially more detrimental to the surrounding neighborhood and to avoid needing to come back it was noted that to the

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extent the proposed addition ends up constituting a substantial improvement that such a substantial improvement should comply with Section 470.6(F) of the Scituate Zoning Bylaw. Motion seconded by Mr. Carchia, all in favor, unanimous.

Second Application: Brian and Katherine Cingel, 3 Poplar Avenue, Scituate, MA 02066, c/o Morse Engineering Co., Inc., 10 New Driftway, Suite 303, 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 of a pre-existing, nonconforming single-family dwelling at **3 Poplar Avenue, Scituate, MA 02066 (Assessor's Map 45, Block 16, Parcel 16)** and increasing the gross floor area by more than 20%. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and John Danehey, Esq. of Danehey & Osterberg, P.C., 5 Old Country Way, Scituate, MA 02066 (not present).**

Mr. Morse – Reviewed the application. This home was built in approximately 1954 and located in an R-3 Zone. The lot is nonconforming with respect to the front yard setback. The existing houses is 1,641 square feet in size. The lot itself is also nonconforming with respect to frontage (2 inches short of the frontage requirement). The proposal is to take down the existing house and construct a new one – which will comply with the front yard setback. The proposed house will have a finished floor area of 3,752 square feet, which will be a 128.6% increase. It brings the front yard nonconformity into compliance and does not alter the frontage.

Meeting was opened for public comment –

Stacie Madden (abutter @ 18 Sycamore Road, Scituate, MA 02066) – lives directly across the street. Ms. Madden questioned the size of the proposed home and reviewed the proposed plan.

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

ADDITIONAL BUSINESS:

43 Oceanside Drive, Scituate, MA – Clarification of ZBA Decision filed with the Town Clerk on March 30, 2021. Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061.

Mr. Mirabito – The board reviewed the letter of Mr. Mirabito dated September 27, 2021 in which Mr. Mirabito requests the boards clarification on this application that was previously heard on February 25, 2021. Mr. Mirabito reviewed the concerns regarding the requested clarification.

Mr. Bucchere – After confirming the points for clarification, Mr. Bucchere and the board affirm the previous decision and relief and that the side setback is in full compliance. Mr. Bucchere states that a further finding or an amendment to this decision is not necessary. Mr. Vogel also confirms issues regarding the permitting process.

Meeting was opened for public comment –

Mark Hamacher (abutter @ 95 Marion Road, Scituate, MA 02066) – requests clarification of clarification. Mr. Bucchere provided same and also offered in response to Mr. Hamacher's question that

no abutter notices were required for this agenda item as it is not considered a modification to the previously issued permit. Mr. Bucchere and members of the board further clarify issues raised by Mr. Hamacher relating to this clarification and the previously issued Special Permit for 43 Oceanside Drive, Scituate, which was approved on February 25, 2021.

Mr. Bucchere – made a motion that the board has clarified their decision that living space or space that is subject to setbacks under code needs to be eight feet from the property line abutting 95 Marion Road, Scituate, MA. Motion seconded by Mr. Xixis, all in favor, unanimous.

Third Application: Peter McCarron, 82 Rebecca Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2(A) 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 **135 Rear Glades Road, Scituate, MA 02066 (Assessor's Map 5, Block 3, Parcel 54)** and increasing the gross floor area by more than 20%. **Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061.**

Mr. Mirabito – reviewed the application. The lot contains 12, 538 square feet. The lot is nonconforming with respect to frontage and lot width. The current existing structure is 1,848 square feet and the proposed structure would be a 267% increase in gross floor area. There is a new septic system upgrade which will be filed with the Board of Health. No stormwater permit will be required. The existing structure in the rear of the lot will remain and be elevated onto piles to get it out of the flood zone. Height will be at the maximum but will be in compliance.

Mr. Bucchere – no comments from the board. Mr. Vogel stated that the conservation commission will have to weigh in and it will have to meet FEMA flood zone requirements and no other comments.

Meeting was opened for public comment –

William Graham (abutter @ 14 Tilden Avenue, Scituate, MA 02066) – questioned whether the existing retaining walls and the cement walkways and patios will remain due to water diversion and/or flooding issues. Mr. Mirabito stated that the plan is for those walls and patios to be removed with the house. Mr. Bucchere stated that the raising of the house onto piles would allow for a more natural water flow. Mr. Graham also asked if fill would be added to change the elevation. Mr. Mirabito stated that a small amount of fill will be added to the south side of the house for the septic system. Mr. Graham asked about any changes with regard to the accessory dwelling and Mr. Bucchere responded that no additional relief and/or additional permits have been requested regarding the accessory dwelling and further clarified that whatever ends up getting built, ends up getting built in the footprint of what the board is approving and not within any of the setbacks that require additional relief.

Mr. Vogel – commented that FEMA has requirements and screening of the area under the house regarding open and closed/solid areas.

Elizabeth McGrath (abutter @ 20 Tilden Avenue, Scituate, MA 02066) – had questions regarding the validity of the property lines and the issue of a possible deck being added to the property on this application. Mr. Bucchere advised that any questions beyond the deeds and/or property lines would be a private matter between land owners.

Mark Hamacher (abutter @ 95 Marion Road, Scituate, MA 02066) – questioned how the ZBA and/or building department relies on the presented deed. Mr. Bucchere and Mr. Mirabito further explained.

Mr. Bucchere – made a motion that the board find that the proposed raze and reconstruction of the single family home shown on the plan prepared by Ross Engineering and dated September 14, 2021 does not create any new nonconformities to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the neighborhood and the board grant the requested relief. Motion seconded by Mr. Xixis, all in favor, unanimous.

APPROVAL OF MINUTES:

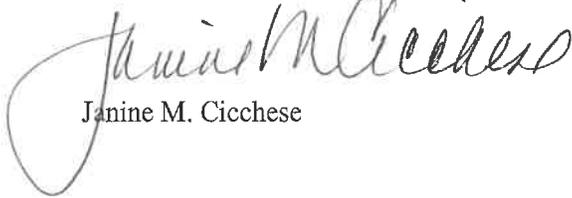
Mr. Bucchere – made a motion to approve the September 16, 2021 minutes. Motion seconded by Mr. Carchia, all in favor, unanimous.

ADJOURNMENT

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

Meeting adjourned at 8:10 pm.

Respectfully submitted by

A handwritten signature in cursive script, reading "Janine M. Cicchese". The signature is written in black ink and is positioned above the printed name.

Janine M. Cicchese