

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

December 16, 2021

Present: Anthony Bucchere, Chairman, George Xixis, Susan Harrison, Christopher Carchia, Justin Marks (not present).

Also present: Robert Vogel, Scituate Building Commissioner

The Scituate Zoning Board of Appeals held a public hearing on **Thursday, December 16, 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: Brian O'Neil, 145 Jericho Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 470.6(F) and 950.2(B) 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 **145 Jericho Road, Scituate, MA 02066 (Assessor's Map 46, Block 14, Parcel 2)** and increasing the gross floor area by more than 20%. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering).** **Brian O'Neil was also present.**

Greg Morse – presented the application. The property is located in the R3 zoning district and also the Flood Plain and Watershed Protection Overlay District and a FEMA Flood Zone elevation AE15. The site itself is nonconforming with respect to lot area (3,640 square foot lot laid out in 1908). The home on the lot was constructed in 1930 and is approximately 1,594 square feet. The nonconformities with respect to lot are the lot frontage and area. The building is nonconforming with respect to the front yard and side yard nonconformities. The proposal is for a raze and reconstruct. The new home will be approximately 2,820 square feet which represents a 77% size increase. The side and front yard will be brought into greater compliance. The existing home is noncompliant with respect to FEMA requirements. The new home would meet all of the NFIP and FEMA Flood Plain requirements. Conservation approval will also be required for this project.

Mr. Bucchere – stated he had no further questions as the proposed home will be bigger but will be more conforming.

Meeting was opened for public comment –

Craig Valdez (abutter @ 10 Meadow Road, Scituate, MA 02066) – asked about elevation plans, current and proposed rear setbacks, placement of building materials and equipment for project and lot size. Mr. Valdez also claimed that in his opinion there is no room to build this home on this property without encroaching on Mr. Valdez's land. Mr. Bucchere and Mr. Xixis addressed these issues with Mr. Valdez.

Mr. Vogel – commented that unless all required approvals have been decided on a building permit will not be issued for this project.

Mr. Carchia – made a motion to approve the proposed home at 145 Jericho Road on a raze and reconstruct as shown on a plan dated December 16, 2021 prepared by Morse Engineering and that the board find that the proposed home 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 Ms. Harrison, all in favor, unanimous.

Second Application: Richard A. Clouser and Martha I. Campbell, 520 Franklin Street, State College, PA 16803 request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 810.2(A) and 470.6(F).1.2 and 3 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 the pre-existing, nonconforming single-family dwelling at **162 Jericho Road, Scituate, MA 02066 (Assessor's Map 46, Block 5, Parcel 44)** 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 – presented the application. The home was recently elevated onto concrete piers to conform to FEMA construction and elevation requirements. The plan is to expand the footprint per the plan which would make the building 7.5 feet wider at the rear. The right setback is conforming, left side is not. A second-floor addition is proposed which would be a 320% gross floor area increase. Additionally, approval is sought for allowance of a substantial improvement in the Flood Plain and Watershed Protection district over 25%. The lot contains 5,426 square feet and lot width is 44.72 feet. No changes are proposed to the rear building (two homes on one lot). No changes to utility companies. Conservation approval is also required for this project. Driveway of the home is currently on the right side of the home.

Mr. Bucchere – raises questions regarding parking issues, access to the rear lot and issues if lot should ever be divided. The existing square footage is 420 square feet and the proposed is 1320 for a 320% increase. The square footage of the rear home is 1,240 square feet. Mr. Vogel addresses the possible requirement of a storm water permit. Mr. Mirabito states that this project does not trip the requirement of a storm water permit. Mr. Vogel also suggests fire rating on exterior wall and restriction of 10% of wall area for windows for safety and privacy.

Meeting was opened for public comment –

Debra Jablonski (abutter @ 154 Jericho Road, Scituate, MA 02066) – asked for confirmation regarding driveway concerns and driveway easement abutting her property. Ms. Jablonski's concerns were discussed with the board.

Mr. Bucchere – made a motion that the board grant a Special Permit and find that the proposed addition shown on the plan drawn by Ross Engineering dated November 8, 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 and further that the proposed addition shall comply with Sections 470.6(F).1.2 and that it does comply with Section 470.6(F) 3. Motion seconded by Mr. Xixis, all in favor, unanimous.

Third Application: Scott and Tara McGavin, 39 Arrowwood Drive, Scituate, MA 02066 request a Variance in accordance with M.G.L. Chapter 40A, Section 10 and Section 520.5(F) of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow for the construction of an in-ground pool and retaining wall at **39 Arrowwood Drive, Scituate, MA 02066 (Assessor's Map**

16, Block 01, Parcel 25). The single-family dwelling is located on a conforming lot and meets all property line setbacks. **Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061. The applicants, Scott and Tara McGavin, also present.**

Mr. Mirabito – presented the application. The McGavin’s recently purchased their home, or which contains 1.28 acres. The current zoning bylaw places the property in a water resource protection district in which there is a provision that does not allow the alteration of natural slopes that are greater than 25% in grade. A variance is being requested for the installation of a pool and retaining wall. The proposal also includes the flattening of the back lawn to a slope in the back. None of the proposed work would have an impact on the environment or the water resource protection district. The variance is being requested due to circumstances involving topography in the area. A pending application has also been filed with the Conservation Commission for approval.

Mr. Bucchere – addressed the water shed protection issues and stated that the Conservation Commission would be better suited to decide in that regard. Mr. Bucchere suggested that the Conservation process be approved first and any recommendations and/or restrictions on the grading would be taken into consideration by this board. Mr. Vogel has no comments.

Meeting was opened for public comment –

Emily Simmer (abutter @ 36 Sherman Drive, Scituate, MA 02066) – is a member of the Water Resources Commission for the Town of Scituate. Commented on 520.5(F) 1 and impervious issues/concerns.

Mr. Bucchere – stated he would reach out to Amy Walkey of the Conservation Commission to express his opinion that Conservation needs to decide first and then will come back to ruling before the Zoning Board.

Mr. McGavin (applicant) – asked for a continuance until January 20, 2022 Zoning Board meeting. Mr. Bucchere made a motion to continue this matter to the next meeting subsequent to a ruling by the Conservation Commission. Motion seconded by Mr. Carchia, all in favor, unanimous.

Fourth Application: Sentil Kumar, as Trustee of the 322 CJC Realty Trust u/s/t 3-28-18, 155 Main Dunstable Road, Suite 160, Nashua, NH requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and/or any other relief that the Board of Appeals may grant, to allow the applicant to have 2 lots and driveway with preexisting, non-conforming structures at **322 Chief Justice Cushing Highway, Scituate, MA 02066 (Assessor’s Map 48, Block 3, Parcel2B).** **Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061 and Walter B. Sullivan, Esq., 80 Washington Street, Building B, Suite 7, Norwell, MA 02061 (counsel for Mr. Kumar).**

Mr. Mirabito – presented the application. The property has recently been purchased by the applicant which consists of a single-family residence as well as two “out buildings” that contain living quarters, a garage and a small shed. There is also a common driveway for the three residences. There are no wetlands on the property. The proposed plan would consist of “Lot 1”, which would contain the existing structures, “Lot 2” would contain the existing garage and the shed and “Lot 3” which is a conforming lot. The requested relief is for the structures on Lots 1 & 2. The home was built in 1920 and pre-existed zoning.

Atty. Sullivan – stated that it is his intention to go the Planning Board next and will be submitting a plan that will allow the division of a line similar to the Form A process to put each residential structure on its own lot and for relief for 20-foot frontage. Additionally, Attorney Sullivan stated that a finding from this board was being sought that no nonconformities are being created and no changes are being made to the structures themselves – just putting them on their own lot with continued residential use and that these structures pre-existed zoning. The proposed plan is not to knock down the existing structures. Lot 1 contains the main house which is under construction, Lot 2 & 3 contain existing rental properties. Lot 3 conforms and no relief is being sought.

Mr. Bucchere – after discussion with Attorney Sullivan, Mr. Bucchere and Mr. Xixis state that they see several new nonconformities being created with this proposal. Mr. Bucchere stated in his opinion this would require a variance(s) and is presented with “variances on top of variances” with this application. Mr. Vogel stated that as proposed he cannot see the reason for the request/relief.

Meeting was opened for public comment –

Philip Struzziero (abutter @ 107 Satuit Trail, Scituate, MA 02066) – asked for confirmation of square footage of this property.

Brett Woodis (abutter @ 19 Satuit Trail, Scituate, MA 02066) – at the meeting as an abutter and concerned citizen regarding the impact of the enjoyment of the property owners of the surrounding properties, the water flow in the area with any changes to driveways, patios etc. and access issues.

Atty. Sullivan – requested a continuance until the February 17, 2022 Zoning Board of Appeals meeting. Mr. Bucchere made a motion to continue this application to February 17, 2022 meeting. Motion seconded by Ms. Harrison, all in favor, unanimous.

APPROVAL OF MINUTES:

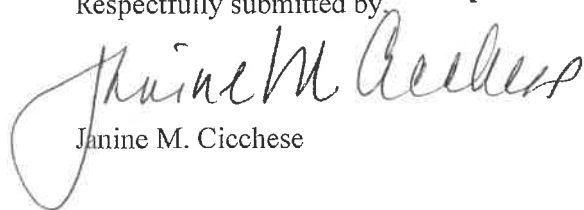
Mr. Bucchere – made a motion to approve the November 18, 2021 minutes. Motion seconded by Ms. Harrison, all in favor, unanimous.

ADJOURNMENT

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

Meeting adjourned at 8:56 pm.

Respectfully submitted by



Janine M. Cicchese