

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

**May 19, 2022**

TOWN OF SCITUATE  
TOWN CLERK  
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**Present: Anthony Bucchere, Chairman, George Xixis, Susan Harrison (viz Zoom), Christopher Carchia, Justin Marks**

**Also present: Robert Vogel, Scituate Building Commissioner**

**The Scituate Zoning Board of Appeals** held a hybrid public hearing in the Selectmen's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Highway and was also accessible via zoom on **Thursday, May 19, 2022 at 7:00 P.M.** to consider the following requests:

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**First Application: Ronald and Nancy Davis, 2222 Azalea Place, Winter Park, Florida 32789** request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.3 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow the alteration of a nonconforming structure, previously used as a fire station, to a single-family dwelling at **9 Mitchell Avenue, Scituate, MA 02066 (Assessor's Map 15, Block 3A, Parcel 0).**

**Ronald and Nancy Davis** – presented their application. Mr. Davis stated that this property was bought at auction by another party and fell through and was offered to them to purchase which they did. They are looking to keep the same footprint and square footage. Mr. and Mrs. Davis presented architectural plans for the property. There are no plans to move the structure at all and maintain the footprint and appeal of the prior firehouse.

**Mr. Bucchere** – Further discussion with the Davis's clarified that "request for rezoning" was not necessary; however, relief was required to obtain a building permit. This property is nonconforming as to lot frontage, lot area and as to lot width. The present structure complies with the side and rear setbacks and is nonconforming as to frontage. The use is being changed from "public safety" to residential.

**Mr. Vogel** – stated theoretically that if this was a residence a request for a special permit would not be required as the footprint will not be changing and the square footage will not be increased by over 20% but this is proposing to be changed from a structure to a residence.

**Meeting was opened for public comment –**

**Steve Bjorklund (861 Main Street, Norwell, MA 02061)** – quoted Section 810.3 of the Scituate Zoning Bylaw and gave his opinion that a Finding should be made in this case. Mr. Bucchere stated that this section of the bylaw was not properly represented in this application and proceeded with the hearing.

**Kevin Kane (abutter @ 6 Mitchell Avenue, Scituate, MA)** – confirmed with the Davis's and the board that their intent was to use this structure as a single-family home.



**Mr. Bucchere** – made a motion that the board grant the special permit for the modification or raze and reconstruction of the existing building at 9 Mitchell Avenue for the purposes of construction of a single-family home which is constructed either in the same footprint or in a separate footprint which complies with setbacks for side and rear and which is no closed to Mitchell Avenue than 10.8 feet and complies with Scituate's Zoning bylaw in all other regards with the understanding that there will be no other changes to the existing nonconforming characteristics of the lot. The board finds that such an alteration or raze and reconstruction would not create any new nonconformities and would not be substantially detrimental to the surrounding neighborhood. Motion seconded by Mr. Carchia, all in favor, unanimous.

**Second Application: Nicholas and Dianne Accomando, 31 Peggotty Beach Road, Scituate, MA 02066** request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 950.2D and 810.2 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to construct a second floor addition onto a dimensionally conforming single-family residential dwelling on a pre-existing nonconforming lot in the Residence R-3 Zoning District at **31 Peggotty Beach Road, Scituate, MA 02066 (Assessor's Map 56, Block 1, Parcel 7-0)**, which will not expand the existing building footprint or create new nonconformities, and which will not be substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure or use.  
**Representing the applicant - Jeffrey De Lisi, Esq. of Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066.**

**Attorney De Lisi** – presented the application. The existing home is a single-story 900 square foot cottage. A special permit from the Planning Board has recently been obtained to construct a 708 square foot addition going up not out (second floor). The height of the home after construction would be approximately 24 feet. The house is fully dimensionally conforming, the lot is less than 6,000 square feet and less than 50 feet of frontage and width. The gross floor area would be increased by 79% and therefore requires a finding by the board.

**Mr. Bucchere** – no comments from the board. Mr. Vogel stated that FEMA regulations would have to be complied with regarding flood elevation.

**Meeting was opened for public comment** – no public comment.

**Mr. Xixis** – made a motion that the board find that the request for a special permit for the construction of a second-floor at 31 Peggotty Beach Road onto a dimensionally conforming single-family residential dwelling on a preexisting nonconforming lot find that it will not expand the footprint, will not create any new nonconformities and it will not be substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure as set forth on a plan dated February 11, 2022 by Mackenzie Engineering Group. Motion seconded by Mr. Bucchere, all in favor, unanimous.

**Third Application: Michael and Ellen Bernier, 91 Elm Street, 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 a second-story addition to a pre-existing, nonconforming single-family dwelling at **91 Elm Street, Scituate, MA 02066 (Assessor's Map 44, Block 2, Parcel 16-0)** and increasing the gross floor area by more than 20%.  
**Representing the applicant - Steve Bjorklund, 861 Main Street, Norwell, MA 02061.**

**Mr. Bjorklund** – presented the application. Nonconformities include frontage and width of lot. The current structure completely complies with all setbacks. The request would be to take the single-story wing on the west side of the residence and make this a two-story which will meet setbacks. This addition would be a 26.1% increase. The height of the addition will be lower than the existing home.



**Mr. Bucchere** – confirmed that the existing garage will not be changed. No comments from the board.

**Meeting was opened for public comment** – no public comment.

**Mr. Bucchere** – made a motion that the board find that the proposed addition at 91 Elm Street as shown on a plan prepared by Ross Engineering dated March 30, 2022 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.

**Fourth Application: Michael Sylvester, 184 Captain Peirce 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 conforming dwelling on a pre-existing, nonconforming lot at **184 Captain Peirce Road, Scituate, MA 02066 (Assessor's Map 26, Block 4, Parcel 5)** and increasing the gross floor area by more than 20%. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and applicant.**

**Mr. Morse** – presented the application. The property is in the R2 district and the lot is nonconforming with respect to lot area. The residence was built in 1947 and is 1,232 square feet. The proposed addition would comply with all setbacks but would increase the floor area to 2,076 square feet, which would be a 68.5% increase. The lot is short by approximately 50 square feet.

**Mr. Bucchere** – has no concerns regarding this application. No comments from Mr. Vogel.

**Meeting was opened for public comment** – no public comment.

**Mr. Bucchere** – made a motion that the board find that the proposed addition at 184 Captain Peirce Road shown on a plan by Morse Engineering dated March 16, 2022 do not create any new nonconformities and to the extent they intensify any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Xixis, all in favor, unanimous.

**Fifth Application: Ryan McCarthy, 95 Captain Peirce 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 conforming dwelling on a pre-existing nonconforming lot at **95 Captain Peirce Road, Scituate, MA 02066 (Assessor's Map 26, Block 1, Parcel 21)** and increasing the gross floor area by more than 20%.

**Mr. McCarthy** – presented his application. The applicant has lived at this address since 2015 and as his family has expanded he is seeking to add an addition off the back of the home. The lot is nonconforming as to frontage. The garage on the plan is existing and will remain.

**Mr. Bucchere** – reviewed the plan with the applicant and the board. No comment from Mr. Vogel.

**Meeting was opened for public comment** –

**Kathleen Asmar (abutter @ 101 Captain Peirce Road, Scituate, MA 02066)** – neighbor who agrees with the addition.



**Mr. Bucchere** – made a motion that the board find that the proposed addition at 95 Captain Peirce Road shown on the plan prepared by James McGrath and dated March 12, 2022 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.

**Sixth Application: Todd Groman, 6 Egypt Beach 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 a single-story addition to a pre-existing, nonconforming single-family dwelling at **6 Egypt Beach Road, Scituate, MA 02066 (Assessor's Map 28, Block 21, Parcel 3)** and increasing the gross floor area by more than 20%.

**Mr. Groman** – presented the application. The house is approximately 1,000 square feet. The proposal is to add an addition to the back of the house. Six inches of front setback and 6 feet of frontage are the nonconformities. The current house is 1,126 square feet and with the addition would be approximately 2,871 square feet, which would represent an increase of 140% of gross floor area.

**Mr. Bucchere** – reviewed the change in square footage before and after the addition. No other questions/comments. No comments from Mr. Vogel.

**Meeting was opened for public comment –**

**Nonda Zhusti (abutter @ 14 Egypt Beach Road, Scituate, MA 02066)** – stated he is present in support of his neighbor and agrees to addition.

**Mr. Bucchere** – made a motion that the board find that the proposed addition at 6 Egypt Beach Road, Scituate, MA shown on a plan drawn by James McGrath and dated April 2, 2022 does not create any new nonconformities and to the extent it intensifies any existing nonconformities such intensification is not substantially detrimental to the surrounding neighborhood. Motion seconded by Mr. Carchia, all in favor, unanimous.

**Seventh Application: (*continued from April 21, 2022*) Kenton L. Bongarzone, 17 Gates Circle, Scituate, MA 02066** requests a Variance in accordance with 950.2C of the Town of Scituate Zoning Bylaws. Specifically, the applicant seeks a variance from the requirements of Section 520.4A, which mandates a 150' Non-Disturbance Buffer Zone to tributaries in the Water Resource Protection District, for the construction of a single-family dwelling at **5 Williamsburg Lane, Scituate, MA 02066 (Assessor's Map 37, Block 2, Parcel 4A)**. **Representing the Applicant – James F. Creed, Jr., Esq., Creed & Formica, 2036 Ocean St #1, Marshfield, MA 02050 and Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and applicant.**

**Attorney Creed & Mr. Morse** – presented the application and reviewed the history of the property. This property is located in the R2 and Water Resource Protection overlay district. Aside from the 150-foot setback issue, the lot meets all of the requirements and meets the requirements of the Water Resource Protection District regulations. The lot itself complies fully with zoning requirements and is not in a flood plain. A drainage pipe on the property was moved in the 1970's to a catch basin to make room for a house on this lot. The outlet pipe for the drainage is at the back corner of the lot and becomes the start of a tributary which travels in a southerly direction to the reservoir which is approximately 1,000 feet away; however, from that point the 150-foot setback which is in the zoning envelope on the property. A single-family three-bedroom home is being proposed. The septic system is on the north side of the home and would be a denitrification system. Roof dry wells and a rain garden are also proposed for water runoff.



**Mr. Bucchere** – reviewed and discussed the standards for a variance. Further discussions involving whether or not the tributary exists continue with Attorney Creed and the board. Mr. Morse discussed the FAST (Fixed Activated Sludge Treatment) System and how it works. Attorney Creed also addressed the issue of a deed restriction and/or conditions regarding enforcement for water filtration for a buildable lot. Mr. Vogel also discussed a previous project with similar conditions. Mr. Xixis questioned whether any deed restrictions and/or special septic considerations existed on homes in the area. The discussion continued as the residences in question would have been built prior to zoning bylaw.

**Meeting was opened for public comment –**

**Bruce Arbones (abutter @ 23 Gannett Pasture Lane, Scituate, MA 02066) – also represents the Water Resource Committee** – stated that there are a couple of other places in town where the town has placed drains inside the zone areas. The committee is working with the town to get those drains removed. The position of the Water Resource Committee is that the 150-foot buffer zone should be disturbed; however, as a resident of the town, if the applicant is willing to spend what is required would agree. Mr. Arbones would recommend to have an expert weigh in what would be sufficient to adequately protect the tributary. Attorney Creed discussed with the board the proposal of offering a condition to pay for the installation of a particle separator and/or some other option agreed upon by the DPW in the drainpipe for the town to install in the amount of \$10,000.00. This issue was discussed with Mr. Morse as well and the board. Ms. Harrison added that the board would want to do what is right for the benefit of the town and the water supply but is unsure as to what that would be. Mr. Bucchere felt that peer review would be called for but is concerned about cost and what would be involved in that process. Mr. Bucchere asked Mr. Arbones if Water Resource Committee would be willing to prepare an RFP for peer review of necessary mitigation to protect the quality of the water in this tributary and which would include a natural vegetative buffer 50 feet from the tributary, the home would be equipped with a FAST System, a restriction for organic fertilizer only and that the applicant has offered \$10,000 toward mitigation. It would also need to state how much it would cost for someone to report on that and how long it would take. Attorney Creed additionally requested that the peer review engineer to test the water coming out of the pipe and into the tributary so that a baseline would be established regarding water quality. Mr. Arbones stated he would be open to drafting such a document. Mr. Vogel suggested contacting local firms who have worked with the town to streamline this process. Mr. Morse, upon recommendation, also agreed to put something together for review.

**Steve Bjorklund (861 Main Street, Norwell, MA 02061) –** stated that he has known the Bongarzone's for a number of years and is familiar with the property and the bylaw. Also stated that he is familiar with alternative septic systems and has had favorable results with those and the rain garden process and felt this would work well in this situation. Mr. Bjorklund stated he hoped the board would look favorably on granting the variance if additional information is gathered and reviewed.

**Mr. Bucchere** – made a motion to continue to June 16, 2022. Motion seconded by Mr. Carchia, all in favor, unanimous.

**Eighth Application: James D. and Catherine E. Wolfe, 17 Buttonwood Lane, 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 Buttonwood Lane, Scituate, MA 02066 (Assessor's Map 5, Block 2, Parcel 4)** and increasing the gross floor area by more than 20%. **Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and applicant.**



**Mr. Morse** – presented the application. The home on this property was built in 1900 and is in the R2 district. The current home consists of 2,135 square feet. The lot nonconformities lot area, width and frontage and the nonconformities of the home are side and front yard setback. The property is also located in the FEMA floodplain and is non-FEMA complaint. The proposed new home would be approximately 3,080 square feet, which would be 44.3% increase, and would be fully FEMA compliant.

**Mr. Bucchere** – confirmed with Mr. Morse that the covered portico would become a garage with living space above. A plunge pool is also proposed on this property.

**Meeting was opened for public comment – no public comment.**

**Mr. Bucchere** – made a motion that the proposed single-family dwelling at 17 Buttonwood Lane as shown on a plan prepared by Morse Engineering dated April 14, 2022 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. Carchia, all in favor, unanimous.

**Ninth Application: (*continued from April 21, 2022*) Edward Johnson of K & E Construction for Byron and Constance Leach, 50 Hazel Avenue, Scituate, MA 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, nonconforming single-family dwelling at 50 Hazel Avenue, Scituate, MA 02066 (Assessor's Map 50, Block 1, Parcel 19). Representing the Applicant - Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and applicant.**

**Mr. Morse** – presented the application. A revised plan was submitted with a changed footprint of the house. This is in the R3 district and the existing home was built in 1895 and is approximately 1700 square feet. The nonconformities are the frontage on Hazel Avenue and the front yard setback to Harbor Heights Road (which is a private street). The applicant has no rights and is not proposing to do any work or any access to Harbor Heights Road. The new home would be approximately 2,984 square feet in size and would be approximately a 73.9% increase. It complies with the front yard to Hazel and the rear and side yard setbacks but an intensification would be proposed regarding the setback to Harbor Heights Road. Although it is an intensification it is not considered detrimental to any abutters or anyone who has rights on Harbor Heights Road. Mr. Carchia asked if average setbacks were confirmed on Harbor Heights Road. Mr. Morse stated that there were no homes within 200 feet of this location on this side of Harbor Heights.

**Mr. Buchere** – thought this revised plan made more sense than the previous. No comments from Mr. Vogel.

**Meeting was opened for public comment –**

**Mark Hamacher (abutter @ 95 Marion Road, Scituate, MA 02066)** – concerned that Harbor Heights Road is being addressed as a paper street (private way). Mr. Bucchere discussed with Mr. Hamacher that he was contesting that it is privately owned and others do not have easement rights.

**Mr. Bucchere** – made a motion that the board find that the proposed dwelling on the plan drawn by Morse Engineering dated February 24, 2022 and revised May 12, 2022 does not create any new nonconformities and to the extent 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.



**APPROVAL OF MINUTES:**

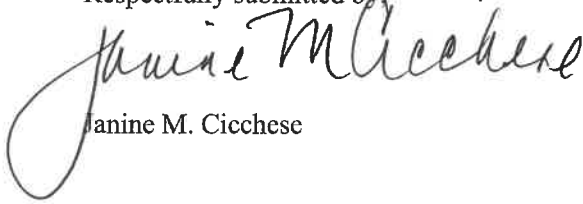
**Mr. Xixis** – made a motion to approve the March 17, 2022 and April 21, 2022 minutes. Motion seconded by Mr. Bucchere, all in favor, unanimous.

**ADJOURNMENT**

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

Meeting adjourned at 9:15 pm.

Respectfully submitted by

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

Janine M. Cicchese