

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

July 21, 2022

TOWN OF SCITUATE
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Present: Anthony Bucchere, Chairman, George Xixis (via Zoom), Susan Harrison, Justin M. Marks, Christopher Carchia
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, July 21, 2022 at 7:00 P.M.** to consider the following requests:

First Application: (*continued from June 16, 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.**

Mr. Bucchere – confirmed that Mr. Morse and Attorney Creed received and reviewed the engineering report of John Chessia. Attorney Creed reviewed status of the application and the required standards for a variance. Attorney Creed's concern with John Chessia's report was that a stormwater management structure hard piped to an open ditch was previously discussed – in Mr. Chessia's report it was referred to as an intermittent stream. There is no factual data to reflect whether the "stream" is fed by groundwater. Attorney Creed's understanding is that this had always been a stormwater drainage structure that was hard piped over the middle of the lot, later moved to the side of the lot and went to an open ditch that happened to end up in the surface water supply. The described situation preexisted this application. Attorney Creed pointed out that he did not concede that this was not a brook or an intermittent stream that is fed by ground water or any other source other than street water runoff that is captured in a catch basin and hard piped to an open ditch. Attorney Creed specified the issue he was addressing was the stormwater runoff in that ditch.

Mr. Morse – reviewed what was previously discussed, the lot consists of 21,461 square feet in the R2 zoning district and is also located in the water resource protection district. The proposal is to construct a new three-bedroom single-family home. A variance is being requested with respect to the 150 foot no disturb buffer zone of a tributary. Mr. Morse discussed the results of Mr. Chessia's report and concerns therein. Mr. Morse stated that they will propose stormwater controls at this site, drywells and raingardens. Mr. Bucchere additionally commented on the results of Mr. Chessia's report. Mr. Bucchere stated he was expecting more from Mr. Chessia's report. Mr. Vogel also commented.

Mr. Bucchere – would like specific comments from Mr. Chessia on the following: how dirty the water flowing in the tributary is right now, generally what a house the proposed size would produce for runoff and contamination for abutting lands, proposals for mitigation and what might be done to mitigate that, if Mr. Chessia would agree to mitigation and if he disagrees with it are there further mitigation efforts that could be sought to have him agree with it or if it is impossible or not cost effective to achieve. Flooding does not appear to be an issue – the issues appear to be wastewater and stormwater runoff.

Meeting was opened for public comment –

Bruce Arbonies, 23 Gannett Pasture Lane, Scituate, MA 02066 (Water Resources Commission) – had a question regarding proposed dry well pitch for runoff. Mr. Bucchere responded.

Steve Bjorklund (861 Main Street, Norwell, MA 02061) – stated his opinions regarding the results of Mr. Chessia's report. Mr. Bucchere responded.

Mr. Bucchere – made a motion to grant the request for a continuance to September 15, 2022. Motion seconded by Mr. Carchia, all in favor, unanimous.

Second Application: (*continued from June 16, 2022*) Matthew Cadman, 62 Curtis Street, 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 additions to a pre-existing, nonconforming single-family dwelling at **62 Curtis Street, Scituate, MA 02066, (Assessor's Map 26, Block 1, Parcel 1)** and increasing the gross floor area by more than 20%. **Representing the Applicant – Joseph E. Webby, III, Professional Land Surveyor, 6 Pine Hill Road, Kingston, MA 02364 and applicant.**

Mr. Cadman – presented revised plan dated July 5, 2022, which reflected the addition of a drywell. Mr. Vogel and the board discussed this plan and dimensional differences from prior submitted plan.

Mr. Webby – stated he was not aware of the stormwater bylaw and that was not part of what he was asked to do on the revised plan. Mr. Morse also offered some clarification on the impervious matter for the board. Mr. Bucchere discussed with the board and the applicant. Mr. Xixis requested specific calculations for all the impervious area on the property. Mr. Webby stated he would review the stormwater bylaw and revise the plan.

Meeting was opened for public comment –

Bruce Arbonies, 23 Gannett Pasture Lane, Scituate, MA 02066 (Water Resources Commission) – participated in a discussion regarding impervious surfaces and if they would be over 15%. Mr. Arbonies also wanted to add that if they wanted to address the stormwater runoff they could go well beyond the 20%.

Mr. Bucchere – made a motion to grant the request for a continuance to August 18, 2022. Motion seconded by Mr. Carchia, all in favor, unanimous.

Third Application: (*continued from June 16, 2022*) Allison Rock-Studer, 59 Country Walk, Shelton, CT 06484 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 820.2 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 **10 Alden Street, Scituate, MA 02066 (Assessor's Map 73, Block 7, Parcel 6)** and increasing the gross

floor area by more than 20%. **Representing the Applicant –Gregory J. Morse (Registered Professional Engineer, Morse Engineering).**

Mr. Morse – reviewed and presented the application. Mr. Morse stated that this property is located at the Marshfield end of Humarock and is in an R3 zoning district and in the Flood Plain Watershed Protection Overlay District. The existing site was constructed in approximately 1950 and is nonconforming as to lot width, area, frontage, front and side yard setbacks. The new house will be two and a half stories, will be elevated and will be in greater compliance. The existing floor area is 856 square feet, the proposed will be 1700 square feet for an increase of 98.5%. The existing house is non-compliant with FEMA standards, the new house will be in full compliance.

Meeting was opened for public comment – no comments from the board or the public.

Mr. Bucchere – made a motion that the board find that the proposed raze and reconstruction shown on a plan drawn by Morse Engineering dated April 25, 2022 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 and that the board grant the requested relief. Motion seconded by Mr. Xixis, all in favor, unanimous.

Fourth Application: David Pratt, 33 Tupelo Road, Marshfield, MA 02050 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 a two-story addition to a pre-existing, nonconforming single-family dwelling at **45 Grasshopper Lane, Scituate, MA 02066 (Assessor's Map 8, Block 7, Parcel 37F)** and increasing the gross floor area by more than 20%. **Representing the Applicant – David Pratt (builder) Keith Armstrong, 45 Grasshopper Lane, Scituate, MA 02066 (homeowner).**

Mr. Pratt and Mr. Armstrong – reviewed and presented the application. The existing single-family home is nonconforming. The proposal is to add a second-story of 450 square feet on the side of the property, which is currently a single story. The existing single story will come down, a new foundation will be done, the single story will be rebuilt in the same footprint and the second story will be added with a master bath. There will be no change to the drip edge. The only reason the relief is required is that the addition will increase by 20.5%.

Meeting was opened for public comment – no comments from the board or the public.

Mr. Bucchere – made a motion that the board grant the request for a special permit finding that the proposed second story addition 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 and that the board grant the requested relief. That addition is shown on a plan drawn by Morse Engineering dated April 21, 2022. Motion seconded by Mr. Carchia, all in favor, unanimous.

Fifth Application: Mike Finnie, 6 Stockbridge Road, Scituate, MA 02066 c/o Morse Engineering, 10 New Driftway, Suite 303, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 470, 820 and 950.2D of the Scituate Zoning bylaw and/or any other relief that the Board of Appeals may grant, to authorize the nonconforming uses located at **157 First Parish Road, Scituate, MA 02066 (Assessor's Map 44, Block 2, Parcel 1)** to be changed, extended or altered to specified uses which include the construction of additional area for a garage building for the storage of trucks and/or motor vehicles, which uses are not substantially more detrimental or injurious to the neighborhood than the existing nonconforming uses on the subject property.

Representing the Applicant – Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and applicant.

Mr. Morse and Mr. Finnie – reviewed and presented the application. The proposal is for the construction of a new garage building in the rear portion of the property. This property is better known as Finnie's Garage and/or O'Brien's Car Care. This property is in the R2 zoning district, 71,361 square feet and has been owned by the Finnie family since the 1940's and has served as several commercial businesses during that time. The new building would be approximately 54 feet by 100 feet and would allow for indoor storage and salvage. There would be no material change in the use of the site.

Mr. Bucchere – questioned change in use. Mr. Morse confirmed there will be no change in use. Mr. Morse requested such relief as this property is in a residential zoning district. The proposed new building would fully comply with zoning dimensional requirements. Mr. Bucchere and Mr. Vogel agreed that this proposal would be less detrimental to the neighborhood. Mr. Xixis commented and agreed he thought this would improve the neighborhood.

Meeting was opened for public comment –

Sean Zinsmeister (abutter @ 9 Gates Circle, Scituate, MA 02066) – had concerns regarding storage of chemicals, garbage, rats, illness of pet and ground contamination/toxicity regulations. Mr. Zinsmeister doesn't necessarily have any issues with the new proposed building but a clean-up of the existing business. A discussion followed with Mr. Bucchere and Mr. Finnie in which they stated that with this new building some of these concerns will now be stored inside and lessen concerns. Additionally, Mr. Bucchere stated that any and all environmental concerns would be addressed by state and/or environmental codes. Any decision relating to relief from this board would relate to zoning only. Mr. Vogel also commented. Mr. Zinsmeister questioned the proposed height of the new building, which would have an 18-foot roof height, and lighting on the structure. Mr. Bucchere referred to and discussed the lighting bylaw, downward lighting and hours of exterior lighting.

Richard Barnard (abutter @ 3 Gates Circle, Scituate, MA 02066) – had concerns regarding noise, extended work hours, increase in traffic. Mr. Bucchere responded to these questions.

Dennis Esker (abutter @ 10 Gates Circle, Scituate, MA 02066) – had environmental concerns. In addition, Mr. Finnie commented that the building would not have a foundation so no earth would be moved. The building would sit on piles. Mr. Esker asked if Mr. Finnie may think about installing a sound barrier. Mr. Bucchere discussed the buffer issue and thought it was reasonable to expect some sort of additional sound buffering.

Mr. Bucchere – made a motion that the board find that with the following mitigations in place: provided lighting on the exterior of the building is limited and that some effort and/or buffering along the western property line is made, that the proposed garage shown on a plan drawn by Morse Engineering dated June 6, 2022 is not a change or intensification of nonconforming use that is substantially more detrimental to the surrounding neighborhood. Mr. Bucchere added that once the building commissioner receives the building plans, should he have any questions with mitigation efforts he should send the issue back to the board for enforcement. Motion seconded by Mr. Carchia, all in favor, unanimous.

Sixth Application: Jennifer Clark and Matej Ucen, 15 Eleventh 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 allow for the extension and structural change to a single-family dwelling on a pre-existing, nonconforming lot at **15 Eleventh Avenue, Scituate, MA 02066 (Assessor's Map 39, Block 5, Parcel 23-0)** and increasing the

gross floor area by more than 20%. **Representing the Applicant – Matej Ucen (general contractor/applicant), Joseph E. Webby, III, Professional Land Surveyor, 6 Pine Hill Road, Kingston, MA 02364, Alissa Jones (architect), HC Design, 146 Front Street, Scituate, MA 02066 and applicants.**

Mr. Ucen – reviewed and presented the application. Relief is being sought for nonconforming lot area, width and frontage. The proposal is to enclose the front and rear decks with a heated living space and increase the square footage by 56%, which is 991 square feet. The proposal would conform to all dimensions and requirements.

Meeting was opened for public comment – no public comments.

Mr. Bucchere – made a motion that the board find that the proposed addition at 15 Eleventh Avenue shown on a plan drawn by Joseph Webby and dated June 9, 2022 should receive the requested special permit and the board find that the proposed addition 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.

Seventh Application: David Boike and Christine Collins, 17 Hazel 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 allow for the expansion to a single-family dwelling on a pre-existing, nonconforming lot at **17 Hazel Avenue, Scituate, MA 02066 (Assessor's Map 50, Block 13, Parcel 20)** and increasing the gross floor area by more than 20%. **Representing the Applicant – Daniel Garte Architect, 220 Rocky Hill Road, Plymouth, MA 02360 and homeowner.**

Mr. Garte and Mr. Boike– reviewed and presented the application. The lot is nonconforming (9400 square feet) as to area and width. The proposal would consist of expanding the breezeway by 105 square feet and an addition over the existing garage and breezeway, which would an additional 608 square feet for a total of 712 square feet and a 43% increase.

Meeting was opened for public comment – no public comment.

Mr. Bucchere – made a motion that the board find that the proposed addition shown on the plot plan by Michael Clancy dated May 18, 2022 should receive their requested special permit and that the board find that the proposed addition does not create any new nonconformities and any intensification of any existing nonconformities is not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Carchia, all in favor, unanimous.

Eighth Application: Jeannine Ripley, 190 Captain Peirce Road, Scituate, MA 02066 c/o Jeffrey A. De Lisi, Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066 requests 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 an addition onto the rear portion of the existing nonconforming single-family dwelling at **190 Captain Peirce Road, Scituate, MA 02066 (Assessor's Map 26, Block 2, Parcel 31-0)** increasing the gross floor area of the dwelling by more than 20%, which addition will fully conform to all dimensional requirements, will not create new nonconformities, and will not be substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure or use. **Representing the Applicant – Matthew Mitchell, Esq. of Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA 02066, Gregory J. Morse (Registered Professional Engineer, Morse Engineering) and applicant (via Zoom).**

Attorney Mitchell – reviewed and presented the application. Attorney Mitchell stated that the purpose of the addition was for the applicant's mother to move in. The main nonconformity on the lot is frontage.

Mr. Bucchere – stated that the proposed addition will extend into the water resource protection district. The septic system will be in the back. No comments from the rest of the board and/or Mr. Vogel.

Meeting was opened for public comment – no public comment.

Bruce Arbonies, 23 Gannett Pasture Lane, Scituate, MA 02066 (as representative of the Water Resources Commission) – commented about the impervious area percentage.

Mr. Bucchere – made a motion that provided the board receives a calculation from Greg Morse confirming the percentage of impervious area on the lot is less than 15%, that the board grant the requested permit and find that the proposed addition shown on a plan drawn by Morse Engineering dated June 15, 2022 does not create any new nonconformities and to the extent it intensifies any existing nonconformities that such intensification is not substantially more detrimental to the surrounding neighborhood. Motion seconded by Mr. Carchia, all in favor, unanimous.

APPROVAL OF MINUTES:

Mr. Bucchere – made a motion to approve the April 27, 2022, June 16, 2022 and June 22, 2022 minutes. Motion seconded by Ms. Harrison, all in favor, unanimous.

ADDITIONAL BUSINESS:

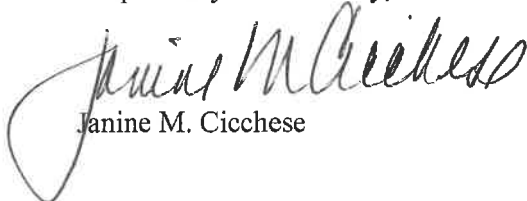
Mr. Bucchere – stated that he will be stepping down as acting chair for ZBA regular meetings. He will continue as chair for the pending 40B application through its conclusion and to remain on the board until that time, after which his intent is to step down completely. A letter will follow to the Board of Selectmen advising them of this decision. Mr. Bucchere nominated Mr. Xixis to take his place as chair at the September 15, 2022 meeting. Mr. Bucchere and Mr. Xixis will not be present for the August 18, 2022 meeting. Ms. Harrison will be acting chair at the August 18, 2022 meeting. Motion seconded by Ms. Harrison, all in favor, unanimous.

ADJOURNMENT

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

Meeting adjourned at 9:00 pm.

Respectfully submitted by,



Janine M. Cicchese