

# Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.  
Scituate, Massachusetts 02066  
(781) 545-8716



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TOWN OF SCITUATE  
TOWN CLERK

## TOWN OF SCITUATE ZONING BOARD OF APPEALS Meeting Minutes

May 18, 2023

**Present:** Anthony Bucchere, Chairman, George Xixis, Susan Harrison, Justin M. Marks, Christopher Carchia  
Kevin Freytag, Esq, Town Counsel  
Jeffrey A. De Lisi, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA -  
Representing the applicant Dan Lovendale of Salt Meadow Development at Scituate, LLC  
Dan Lovendale of Salt Meadow Development at Scituate, LLC - applicant  
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 18, 2023 at 7:00 P.M.** to consider the following requests:

**First Application:** *(continued from April 20, 2023)* Edward M. Fopiano, 259 Main Street, Hingham, MA 02043 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 preexisting, nonconforming single-family dwelling located at 7 Milton Street, Scituate, MA 02066 (Assessor's Map 72, Block 9, Parcel 9) and increasing the gross floor area by more than 20%.

**Mr. Bucchere** – The application for 7 Milton Street has been withdrawn and will not be heard.

**Second Application:** *(continued from April 20, 2023)* Patricia A. Huie and John P. Kelly, c/o Jeffrey A. De Lisi, Esq., 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 Section 810.2 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, that the alteration, extension, or structural change in the form of an approximately 100 SF addition to a pre-existing, nonconforming single-family home on a pre-existing nonconforming lot at 12 Alden Street, Scituate, MA (Assessor's Map 73, Block 7, Parcel 5-0) will not be substantially more detrimental or injurious to the neighborhood, than the existing nonconforming structure. **Representing the Applicant – Jeffrey A. De Lisi, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA.**

**Attorney De Lisi** - presented and reviewed the application status. This application is to seek relief for a small bump out of 4.4 feet in width on the side yard of the home for the purpose of enclosing an exterior stairway entrance to the cellar where the laundry facilities are located. The home is 600 square feet on a 3,200 square foot lot in Humarock. The current owners of the home bought it in 2020. At the time of purchase there was a concrete poured foundation extending from the westerly side of the house into the side yard. This foundation essentially functions as a bulkhead and is covered with a hatch door which

provides access to below. This application was originally presented at the April meeting and continued to this meeting. At the April meeting the discussion was that the plan showed a measurement of a setback measured from the edge of the poured concrete foundation, which was closer to the side yard than the exterior side of the house. That is not the typical measurement of a setback and Attorney De Lisi went on to explain why it was presented in that fashion. Attorney De Lisi referred to Section 610.2B and further discussed the intention. Attorney De Lisi explained to the board that he was attempting to find a solution for his clients so they could access their cellar without leaving the home. Since the last meeting, Attorney De Lisi explained that he had reviewed information on this property and discovered through the Board of Health that permission was obtained and a cesspool and a leaching field were installed in the rear of the property with variances from Title V. Attorney De Lisi discussed relief from a variance and the bylaw language. Mr. Bucchere and the board discussed that he met with Mr. Carchia at the site so that he could see the bulkhead. Mr. Carchia commented on the site and foundation. The Board discussed options and setbacks. It was noted that, given the location of the adjacent house, the proposed enclosure could still allow access to the rear of the property for repairs or emergencies. Attorney De Lisi noted there was no abutter opposition to this proposal.

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

**Mr. Bucchere** – made a motion that with respect to the application at 12 Alden Street with the proposed addition shown on a site plan drawn by Grady Consulting and dated March 1, 2023 that the board grant the requested special permit relief allowing the addition in the footprint shown on the plan to come not closer to the western property line than 1.5 feet with the condition that the applicant prior to the execution of said special permit submit a revised plan correcting the existing side setback on that side. Motion seconded by Mr. Xixis, all in favor, unanimous.

**Third Application: Dina Wigmore, P.O. Box 74, Humarock, MA 02047** 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 preexisting, nonconforming single-family dwelling located at **8 Westgate Lane, Scituate, MA 02066 (Assessor's Map 26, Block 1, Parcel 37)** 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 and reviewed the application status. This application is a request for a raze and rebuild of a single-family home in an R2 zoning district. The lot itself is a conforming lot with an existing home built in 1965 and is approximately 1,274 square feet. The home itself is noncompliant with respect to the front and rear yard setback and lot width. The property had fallen into disrepair. The proposal is to raze the existing structure and construct a new home with greater compliance. The proposed gross floor area is 2,569 square feet with a 116% increase. This would not create any new nonconformities.

**Meeting was opened for public comment –**

**Freya Schlegel (abutter @ 9 Westgate Lane, Scituate, MA 02066)** – stated she was happy about this project but had a concern about drainage and/or stormwater runoff to her property. Mr. Morse responded that additional hearings will take place with the conservation commission regarding drainage etc.

**Bruce Arbonies, 23 Gannett Pasture Lane, Scituate, MA 02066 (Water Resources Commission)** – this property is located in the Water Resource Protection District and that if the impervious square footage goes over 15% then a system for artificial recharge will need to be in place. Mr. Morse stated that what was proposed was well under the requirement.

**Mr. Bucchere** – made a motion that the proposed raze and reconstruct shown on a plan drawn by Morse Engineering and dated April 18, 2023 does not create any new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially detrimental to the surrounding neighborhood. Motion seconded by Mr. Xixis, all in favor, unanimous.

**Fourth Application: Nir Drory, 117 Lyman Road, Chestnut Hill, MA 02467** requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 810.2 and 470.6F of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to permit the reconstruction of a single-family dwelling located at **74B Glades Road, Scituate, MA 02066 (Assessor's Map 5, Block 4, Parcel 24)** which was destroyed by fire. **Representing the Applicant – Gregory J. Morse (Registered Professional Engineer, Morse Engineering), applicant, Dick Rockwood, Rockwood Design, Inc., 1020 Plain Street #320, Marshfield, MA 02050 (architect).**

**Mr. Morse** - presented and reviewed the application status. This property is one of five that was destroyed by fire on March 24, 2023. The existing property is in the R3 zoning district and also is in the flood plain and watershed protection overlay district. The lot itself is small and nonconforming as to frontage, lot area, side, front and rear yard setbacks and lot width. The proposal is to replace the structure, which previously existed at 1296 square feet, with a new building. The building will be brought into greater compliance than what existed. The proposed structure would be taller and two and a half stories with a proposed square footage of 2350 for an 81.3% increase. The proposed home would require approval from the conservation commission and would be elevated onto timber pilings for FEMA and FIP requirements. Discussion followed by the board and Mr. Morse. Mr. Vogel commented on fire rated walls and window opening restrictions.

**Meeting was opened for public comment –**

**Robert Tremblay (abutter @ 71 Glades Road, Scituate, MA 02066 – via Zoom)** – resides directly across from this address. His home sustained significant damage from the fire. He and his wife support the rebuilding of the property.

**Nir Drory (applicant)** – stated he wanted to take the necessary steps to make sure something like this does not happen again.

**Mr. Xixis** – Mr. Xixis made a motion on the application of Nir Drory of 117 Lyman Road, Chestnut Hill for a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 810.2 and 470.6F of the Scituate Zoning Bylaw to permit the reconstruction of a single-family dwelling at 74B Glades Road, Scituate, MA pursuant to the plan prepared by Morse Engineering dated April 18, 2023 as revised on May 1, 2023 and move that the board find that the plan introduces no new nonconformities and to the extent that it intensifies any existing nonconformities those nonconformities are not substantially more detrimental to the neighborhood and that the board approve. Motion seconded by Mr. Bucchere, all in favor, unanimous.

**Fifth Application: Nir Drory, Beach Boy Realty Trust, 117 Lyman Road, Chestnut Hill, MA 02467** requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Sections 810.1, 810.2 and 470.6F of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to permit the reconstruction of a single-family dwelling located at **74 Glades Road, Scituate, MA 02066 (Assessor's Map 5, Block 4, Parcel 26)** which was destroyed by fire and to allow the continued non-conforming use of the property which is occupied by two single-family dwellings (74 and 74C Glades Road).

**Mr. Bucchere** – The application for 74 Glades Road has been withdrawn and will not be heard.

**Sixth Application: William Pappastratis, Trustee of Janwills Realty Trust, 632 Summer Street, Marshfield, MA 02050** requests a Special Permit/Finding in accordance with Sections 470.6A and 950.2.B.1 of the Scituate Zoning Bylaw, and/or any other relief that the Board of Appeals may grant, to allow for the construction and use of an elevated footbridge and dock for recreational purposes located at **Lots 11 & 12, at A&B and B&C Streets, off Central Avenue, Scituate, MA 02066 (Assessor Parcels Map 69, Block 2).** **Representing the Applicant – Jeffrey A. De Lisi, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA and applicant.**

**Attorney De Lisi** – presented and reviewed the application status. This property is located in three separate zoning districts – R3, Saltmarsh Tideland District and the Floodplain Overlay District. The proposal is for an elevated footbridge and dock that would be constructed over the marsh and river. Section 460.1 of the Scituate Zoning Bylaw was discussed. The applicant is not proposing a commercial dock, catwalk, wharf or float. Attorney De Lisi stated that in this particular area there are many non-commercial docks. It is common practice for people in the neighborhood to park on these parcels although the applicants have not made use of it in that way. The owner is proposing a recreational footbridge and a recreational dock which is consistent with the use of other residents of Humarock. Attorney De Lisi made note that it is not stated in the bylaw that any such dock has to be associated with a dwelling or an accessory building. The proposed plan shows the possibility of up to nine boats that could be on this dock. It was designed this way as Chapter 91 allows it to be designed in that fashion but the applicant is agreeable to any conditions to limit the number of boats on the docks to five. The reason this matter is before the Board is that the property is in the Flood Plain Overlay District, which requires a Special Permit for construction of a foot bridge. A discussion followed with the Board and Mr. Vogel regarding this dock not being associated with a dwelling and the issue of parking. Attorney De Lisi stated that the zoning bylaw table of parking uses, the parking would be for a marina and the parking requirement is for one space per slip. A marina description in the bylaw is a facility for the dockage of more than five boats. Attorney De Lisi noted that there is space for parking but the actual plan is not to park there. The applicant does not own a boat kept in Scituate or an adjacent home in Scituate but does own land and plans to purchase a boat. The matter of renting space was discussed and it was noted this would place the dock in a commercial category, and thus in violation of Section 460.1. Mr. Xixis asked and Attorney De Lisi confirmed that there were no other buildings, sheds, covered structures or storage areas proposed on this dock. The issue of power and water were also discussed with Kevin Maguire, 4 Milton Street, Scituate, MA who states that the proposal would include connecting electricity from one of the telephone poles on Central Avenue to the dock for lighting (solar lighting is a possible alternative) and water as well for washing off boats. No additional power would be requested. Bruce Arbonies stated this is outside the Water Resources Protection District.

**Meeting was opened for public comment –**

**Bill Kerrigan, P.O. Box 14, Scituate (Humarock), MA** – asked how far out the dock would go and if the plan had been submitted to the Harbormaster for review. Attorney De Lisi confirmed the plan had been shared and he questioned the permitting process. Mr. Vogel stated that it would require a Chapter 91 license from the Corps of Engineers. Kevin Maguire additionally commented.

**Eugene (Gene) Lydon (abutter @ 310 Central Street, Scituate, MA 02066)** – had questions regarding parking of vehicles.

**Rocco (Ron) Conti (abutter @ 282 Central Street, Scituate, MA 02066 – via Zoom)**– stated this property has been in his family since 1964. Parking matters, additional traffic and noise concerns were discussed. Also, residential vs. commercial matters were discussed. Mr. Vogel reviewed in response to some of Mr. Conti's concerns what may happen when the conditions of zoning relief are violated.

**Rob Conti (abutter @ 282 Central Street, Scituate, MA 02066 – via Zoom)** – Boats would be capped by the size of the dock but not to exceed five boats. Also addressed was the topic of overnights on the boats and parking situation. These issues were discussed with the Board. Attorney De Lisi stated that there was no intention on building parking.

**David Conti (abutter @ 282 Central Street, Scituate, MA 02066 – via Zoom)** – had additional concerns regarding parking (boats/trailers). Mr. Bucchere stated the Board would be required to allow at least space for one car per boat at the dock. Further matters will be discussed before the Conservation Commission as to parking.

**Steve Bjorklund, 861 Main Street, Norwell, MA 02061** – addressed the topic of Airbnb of boats. Mr. Bucchere responded.

**Mr. Bucchere** – discussed further with the Board and Attorney De Lisi the parking issue. Mr. Bucchere made a motion with respect to the application of William Pappastratis, that the Board approve the proposed walkway/dockage and other improvements shown on a plan drawn by Michael Maguire and dated April 20, 2023 with the following conditions: that the dock and walkway be built on a footprint as shown on the plan but with the removal of any dockage that extends into the right of way of B Street, with the condition that no space on the dock shall be rented at any given point in time, with the condition that no more than five boats shall be present at the dock at any point in time and with the condition that space is made on the property for at least one car per boat present at the dock at any given point in time and that the board find that such improvements are consistent with the terms of Section 470 of the bylaw. Motion seconded by Mr. Xixis, all in favor, unanimous.

**Seventh Application: (*Continued from April 26, 2023*) Salt Meadow Development at Scituate, LLC**, seeks a Comprehensive Permit pursuant to Massachusetts General Law Chapter 40B, Sections 20 through 23, 760 CMR 56, and the Town of Scituate Zoning Bylaw and Comprehensive Permit Rules and Regulations, and/or any other relief that the Board of Appeals may grant, to allow for the construction and use of at least 32 dwelling units, at least eight of which would be restricted for low and moderate income families for the development of affordable housing, at the property known and numbered as **279-281 Old Oaken Bucket, Scituate, MA, comprised of Assessor Parcels (44-1-3-D, 44-1-3-0, 41-1-3-A)**. **Representing the Applicant – Jeffrey A. De Lisi, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA.**

**Mr. Bucchere** – opened the continuation of this application by noting that at the last hearing the board has closed the public comment period and that this continuance was for considering the draft of the comprehensive permit. Attorney De Lisi drafted the comprehensive permit with back and forth review and comments from myself, town counsel and the building office and the majority of the concerns were addressed. There are a few items to discuss at this meeting from the perspective of town counsel. Earlier this week the board received the current draft, which included comments from both Attorney De Lisi and town counsel, but board members have not had an opportunity to comment and discuss and that will take place at this meeting. Mr. Bucchere specifically asked the board if they had any questions on any issues that were not addressed in the draft. No questions from the board.

**Attorney De Lisi** – presented and reviewed the application status. Attorney De Lisi spoke about the previous meeting's findings for final plans, the CMRs, and regulations required. Attorney De Lisi, with assistance from the board's counsel, discussed whether a springing regulatory agreement was necessary. The board determined that a springing regulatory agreement was, in fact, not necessary in this circumstance. The board then determined which of the draft conditions and findings concerned a springing regulatory agreement, and, based on the foregoing conclusion agreed to revise the draft document to omit those references. In addition to the discussion of conditions, the board and Attorney De

Lisi also discussed waivers since the decision contains language that states the board hereby adopts the waivers which are in an appendix to the decisions. Mr. De Lisi was asked to narrowly focus on the necessary waivers making them as few and specific as possible, rather than requesting blanket waivers. That task completed, the decision – including conditions and waivers - was approved by the board. There are three conditions for review and modification and/or deletion under the regulatory agreement: conditions 7, 8, and 12 which contain the language concerning the springing regulatory agreement: Per the board, remove the language concerning the springing regulatory agreement paragraphs, 7, 8, 9, 11, and 12 (only removing the springing regulatory language and leaving the rest of paragraph 12 as is).

**Attorney De Lisi – (Condition #1)** Mr. Vogel suggested an edit regarding his ability to accept minor modifications to the plan without requiring a modification to the comprehensive permit and, consequently, a hearing before the Board. The issue: Mr. Vogel is comfortable making calls on aspects of the project dealing with construction of the buildings, but is not qualified to make calls on the aspects of the project that deal with site. Attorney De Lisi stated that under the regulations, when there is a modification to the comprehensive permit, the modification might be considered “minor” as defined in the regulations, and can therefore be submitted to the board informally. In this case, the board doesn’t have to meet on it, and the modification is approved. If the board determines it is a major modification it needs to be discussed at a public meeting; this must occur within 48 hours of the determination.

**Attorney De Lisi – (Condition #2)** spoke to condition #22 regarding the interior and exterior of all buildings and structures shall be constructed substantially as represented in the final plans. Attorney De Lisi was concerned that the client might want the interior to be changed. Does the Board want jurisdiction over the interior as long as the number of bedrooms remains the same? Mr. Bucchere said that the Board believes that Mr. Vogel or the Town Engineer will be able to say what is a substantial change – Mr. Vogel re: modifications involving the buildings (interior and exterior), and the Town Engineer re: modification regarding the site - and the language as it reads covers this situation perfectly. **(Condition #3)** Attorney De Lisi stated that the lighting will be installed in accordance with the Scituate Bylaws and Regulations. Further details regarding light spillage were discussed with Mr. Vogel.

**Liz O’Reilly (abutter @ 179 Maple Street, Scituate, MA 02066)** – questioned the light spillage, and if the board was talking about the street lights or light on any home in the development. Mr. Bucchere explained it was regarding any outside lighting, and explained that the lighting cannot cast past the project’s property line.

**Mr. Bucchere** – reiterated that the board has before them a comprehensive permit that allows the improvements shown on the last version of the plan that the board essentially approved in the hearing, that contains all of the conditions and restrictions as discussed, and, in the opinion of town counsel, is consistent with where the board and building department wanted to get to, and they are comfortable with the draft and he feels that the board is in the position to vote on the approval of this comprehensive permit as drafted with minor comments and changes that have been discussed tonight. No further comments from Mr. Vogel.

**Mr. Bucchere** - made a motion that the Board approve the comprehensive permit as drafted and received by the board earlier this week with the revisions to be forthcoming that were discussed in the hearing tonight. Motion seconded by Mr. Carchia, all in favor, unanimous.

Mr. Bucchere confirmed this would be his final meeting as a member of the Scituate Zoning Board and will no longer be attending meetings.

### **APPROVAL OF MEETING MINUTES**

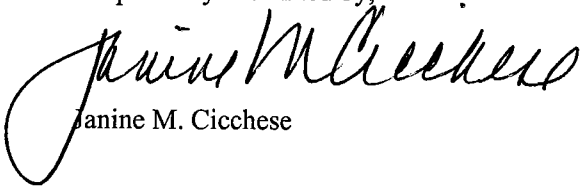
**Mr. Bucchere** – made a motion to approve the March 8, 2023, March 16, 2023, April 20, 2023 and April 26, 2023 minutes. Motion seconded by Ms. Harrison, all in favor, unanimous.

### **ADJOURNMENT**

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

Meeting adjourned at 9:51PM

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Janine M. Cicchese". The signature is fluid and cursive, with a large loop at the beginning and end.

Janine M. Cicchese