

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

August 17, 2023

Present: George Xixis, Chair, Justin M. Marks, Christopher Carchia, Greg Fleming
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, August 17, 2023 at 7:00 P.M.** to consider the following requests:

First Application: David and Nancy Creighton, 18 Mitchell Avenue, Scituate, MA 02066 request a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2.C 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 dwelling in respect to lot area, frontage, width and dimensional setbacks located at **20 Mitchell Avenue, Scituate, MA 02066 (Assessor's Map 15, Block 4, Parcel 13)**. **Representing the Applicant – Jeffrey M. Hassett (Registered Professional Engineer, Morse Engineering) and Matthew E. Mitchell, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA.**

Attorney Mitchell and Mr. Hassett - presented and reviewed the application status. The lot is nonconforming with respect to area, frontage and width and the existing home is nonconforming with respect to right side yard and rear setback. The existing home is approximately 1,600 square feet and the proposed will be a 90% increase. The proposed side yard setback will conform and the rear setback will be more conforming. There will be no increase to any nonconformities and will not create any new nonconformities. A board discussion followed.

Meeting was opened for public comment – no public comments.

Mr. Xixis – made a motion on the application of David and Nancy Creighton on 20 Mitchell Avenue, Scituate, MA to raze and reconstruct the existing dwelling pursuant to the plan by Morse Engineering dated May 3, 2023 the board moved to accept the plan and finds that the proposed raze and reconstruct per the plan introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the neighborhood. Motion seconded by Mr. Carchia, all in favor, unanimous.

Second Application: D. David Mendes, 37 Hawley 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 remodel of a preexisting, nonconforming dwelling located at **38 Hawley Road, Scituate, MA 02066 (Assessor's Map 34, Block 26, Parcel 19).**

Mr. Xixis – This application is deferred to the September 21, 2023 meeting of the Scituate Zoning Board.

Third Application: Kristen West, 50 Wilder Road, Norwell, MA 02061 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow raze and reconstruction of a preexisting, nonconforming dwelling located at **13 Hillcrest Road, Scituate, MA 02066 (Assessor's Map 45, Block 10, Parcel 2).**). **Representing the Applicant – Jeffrey M. Hassett (Registered Professional Engineer, Morse Engineering).**

Mr. Hassett - presented and reviewed the application status. This is a request for a raze and reconstruct. The lot is nonconforming with respect to frontage and the existing structure is conforming as to setbacks. The proposed home will be consistent with the neighborhood, centrally located on the property and will be 2,295 square feet, which will be a 218% increase. No new nonconformities are being proposed. Mr. Vogel and the board confirmed with Mr. Hassett the only nonconformity is 2.5 feet less frontage than compliant and the home will be at least 50 feet away from any wetlands.

Meeting was opened for public comment – no public comments.

Mr. Xixis – made a motion on the application of Kristen West, 50 Wilder Road, Norwell, MA for a special permit/finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810 of the Scituate Zoning Bylaw and/or any other relief that the board may grant, to allow the raze and reconstruction of a preexisting, nonconforming dwelling located at 13 Hillcrest Road, Scituate, MA pursuant to the plan drawn by Morse Engineering and dated July 7, 2023 and that the board find that the proposed raze and reconstruct introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the surrounding neighborhood and that the application be granted. Motion seconded by Mr. Carchia, all in favor, unanimous.

Fourth Application: David McGowan, 126 Elm Street, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2A of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow for a 37% increase in gross floor area of the preexisting, nonconforming dwelling located at **126 Elm Street, Scituate, MA 02066 (Assessor's Map 44, Block 03, Parcel 22).** **Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061 and homeowners.**

Mr. Mirabito – presented and reviewed the application status. The new addition will have a 37% increase in the gross floor area. The setbacks are all conforming. This matter is before this board as the lot is nonconforming and the proposal is over 20% increase in floor area. The number of bedrooms will not change so no change to septic system required.

Meeting was opened for public comment –

Bruce Arbonies (23 Gannett Pasture Lane, Scituate, MA 02066) – Chair of the Water Resource Commission. This property is located in the Water Resource Protection District – Mr. Arbonies asked what the impervious coverage area is for this property. Mr. Mirabito responded that currently it is 2,083

square feet and it will be increased by 471 square feet – an increase of 22.6%, which is less than the 25% threshold. Mr. Arbonies stated that according to his calculations the property is approximately .41 acres and the WRPD has a limit of 15% coverage (2,700 square feet) and will be under that calculation.

Mr. Xixis – made a motion on the application of David McGowan, 126 Elm Street, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2A of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow for a 37% increase in gross floor area of the preexisting, nonconforming dwelling located at 126 Elm Street, Scituate, MA 02066 and moved that the board find that the proposed addition and changes pursuant to the plan by Grady Consulting dated July 10, 2023 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 the board grant the application. Motion seconded by Mr. Marks, all in favor, unanimous.

Fifth Application: Brian Tinkham, 5 Collier Avenue, EXT, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 620.3, 620.4, and 810.2 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to increase square footage more than 20% of the preexisting, nonconforming dwelling located at **5 Collier Avenue, EXT, Scituate, MA 02066 (Assessor's Map 8, Block 3, Parcel 18). Representing the Applicant – Dick Rockwood and Karli Tobias, Rockwood Design, Inc., 1020 Plain Street #320, Marshfield, MA 02050 (architect/project manager) and applicant.**

Mr. Rockwood – stated this lot is over 10,000 square feet, but nonconforming to frontage and front setback. The footprint will not be expanded – the proposal is to go up over the current one-story areas of the dwelling, which will put the project over the 20% increase of square footage. No comments from Mr. Vogel or the board.

Meeting was opened for public comment – no public comments.

Mr. Xixis – made a motion that on the application of Brian Tinkham, 5 Collier Avenue, EXT, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 620.3, 620.4, and 810.2 of the Scituate Zoning Bylaw to increase square footage more than 20% of the preexisting, nonconforming dwelling located at 5 Collier Avenue, EXT, Scituate, MA 02066 and moved that the board, pursuant to the plans by Rockwood Design dated July 11, 2023 and the septic design plan dated March 4, 2004 by Neil J. Murphy Associates, Inc. showing the appropriate lot lines, find that such addition introduces no new nonconformities and to the extent that it intensifies any existing nonconformities such intensification is not substantially more detrimental to the neighborhood and that the board grant the special permit. Motion seconded by Mr. Carchia, all in favor, unanimous.

Sixth Application: Gregory Cone, 747 Country Way and 0 Country Way, Scituate, MA requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 610.B of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to create two lots at **747 Country Way, Scituate, MA 02066 (Assessor's Parcel Numbers: 12-3-9-0 and 12-3-9-B). Representing the Applicant – Jeffrey M. Hassett (Registered Professional Engineer, Morse Engineering) and Matthew E. Mitchell, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA.**

Attorney Mitchell - presented and reviewed the application status. Attorney Mitchell stated this matter was before the board to request two 50-foot lots. There is one driveway currently that is used to access both of these lots. Mr. Hassett stated that currently the property is made up of two developed parcels with abandoned homes. The proposal would be to redivide the land to two 50-foot frontage lots. There is a current dirt driveway which would remain as proposed to service the existing home. The request also

included the request for a driveway to avoid another curb cut per 100 feet of frontage and service one lot as the other lot has a different access point. Mr. Vogel commented on the existing easement and common driveway issue.

Meeting was opened for public comment –

Patricia Lambert – Chair of the Planning Board – stated she has concerns regarding the two points of access and additional concerns regarding the possibility of another subdivision at this location. Mr. Hassett noted that there was a condition that the lots would not be subdivided and this is noted on the provided plan.

Shari Moak-Young (abutter @ 744 Country Way, Scituate, MA 02066) – stated that the dirt driveway that is being discussed was never there until construction was done on the existing dwelling on the lot. Ms. Moak-Young also noted there was no curb cut for that driveway and stated the applicant will have to go to DPW for that approval and she doesn't see the need as there is another driveway closer for the house in between the existing and proposed common driveway.

Christopher Diiorio (abutter @ 719 Country Way, Scituate, MA 02066) – stated his concerns regarding the slope of the land in that area and concerns regarding storm runoff and if this project is approved the runoff issue would be exacerbated. Mr. Diiorio requested that if this application is approved to possibly place the dwelling towards the front of the property along Country Way with one curb cut and allow the house in the back to use the existing driveway and not develop the back section of the property. Ms. Xixis explained that according to the plan the house would most likely have to be where the existing house is on the parcel and did state that this meeting concerns solely the dividing of the lots. A discussion with the board and Mr. Hassett followed. Mr. Wait also commented on the water retention issue.

Bruce Wait (abutter @ 720 Country Way, Scituate, MA 02066) – asked the board to confirm what exactly is being requested regarding a driveway. The board confirmed that the request is for a new driveway, which under the bylaw when 50 foot frontage lots share a boundary a common driveway is required and that the discussion is whether the board could mandate the termination of the existing access and right of way from three lots down or should they be doing that in light of the proposed driveway on the plan.

Mr. Hassett – requested a continuance in this matter. Mr. Xixis stated that the board was “generally comfortable” with the proposed plan but suggested there may be a potential issue and to come back before the board with an official driveway plan that will meet the requirements of Section 720. Mr. Vogel asked if this matter may proceed more smoothly if it was presented before the Planning Board before coming back before the zoning board. Mr. Hassett stated he would have to talk more with his client. Mr. Xixis stated this matter would be continued to September 21, 2023.

Seventh Application: Ian and Eva Horowitz: 62 Collier Road, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2A of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow a proposed addition with a 22.5 foot front yard setback (an extension of the existing front line of the house), and a 30% increase in the gross floor area located at **62 Collier Road, Scituate, MA 02066. (Assessor's Map 64, Block 09, Parcel 11). Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061.**

Mr. Mirabito - presented and reviewed the application status. The proposal is for an addition to the existing dwelling. The nonconformities consist of lot frontage, lot width and front yard setback. There would be a 30% increase in the gross floor area.

Meeting was opened for public comment –

Mike Benning (abutter @ 74 Collier Road, Scituate, MA 02066) – asked the board to confirm that there would not be encroachments and the setbacks would remain the same on the sides. This was confirmed by the board.

Mr. Xixis – made a motion on the application of Ian and Eva Horowitz: 62 Collier Road, Scituate, MA 02066 requesting a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2A of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow a proposed addition with a 22.5 foot front yard setback and a 30% increase in the gross floor area located at 62 Collier Road, Scituate, MA 02066 pursuant to the plan by Grady Consulting dated June 17, 2023 and move that the board find that said construction does not introduce any new nonconformities and to the extent that it intensifies any existing nonconformities those nonconformities are not substantially more detrimental to the neighborhood. Motion seconded by Mr. Marks, all in favor, unanimous.

Eighth Application: Mark Daileader, 12 Graves Avenue, Scituate, MA 02066 requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and Section 810.2.C and/or 810 of the Scituate Zoning Bylaw and/or any other relief that the Board of Appeals may grant, to allow to raze, reconstruct, and extend a preexisting, non-conforming residential accessory structure located at **12 Graves Avenue, Scituate, MA 02066 (Assessor's Map 22, Block 7, Parcel 4). Representing the Applicant – Paul J. Mirabito, PLS, Ross Engineering Company, Inc., 683 Main Street, Norwell, MA 02061 and Susan Daileader, homeowner.**

Mr. Mirabito - presented and reviewed the application status. The proposal is for a one-story residential accessory structure with a proposed height of 13.4 feet. There is an existing structure which will be coming down. Mr. Vogel commented that the proposed accessory structure would be considered new construction and a discussion followed with the board whether this would be introducing a new nonconformity and/or intensifying an existing nonconformity. Mr. Vogel also stated according to the site plan this is located in a Zone X but in fact it appears to be in an AE14, which would require flood vents and to comply with FEMA regulations. The board discussed Section 810.2 description and how it applied to this application. Mr. Xixis stated that this proposal appeared to be a new nonconformity and/or may require a variance.

Meeting was opened for public comment –

Susan Daileader – applicant/homeowner – stated the existing structure is “falling apart” and would like to replace this structure for use as an art studio. Alternative options, including an accessory dwelling, were discussed with the board.

Joanne Yurkstas (abutter @ 8 Montvale Avenue, Scituate, MA 02066) – stated that she thought this project would be an improvement to the property.

Mr. Mirabito – requested a continuance to the next meeting. Mr. Xixis stated this matter would be continued to September 21, 2023.

ADJOURNMENT

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

Meeting adjourned at 8:45 p.m.

Respectfully submitted by

Janine M. Cicchese