



Decision of the Scituate Zoning Board of Appeals (“the Board”) on the application of Teresa and Joseph Hamilton, 764 East Broadway, Boston, MA (“the Applicants”) for a Finding under Massachusetts General Law (“MGL”) 40A Section 6 and a Special Permit under Scituate Zoning Bylaw (“SZB”) 1020.2 to allow the construction of a story and a half addition to the single-family pre-existing, nonconforming dwelling and lot located at 10 Emerson Avenue, Scituate, Massachusetts (“subject property”).

The application was received, advertised and an initial public hearing was opened on May 15, 2008 with the following members of the Zoning Board of Appeals hearing the application –

Albert G. Bangert, Chairman  
Brian B. Sullivan  
Peter B. Morin

**DESCRIPTION OF THE PROPERTY:** At the time of the application, title to the subject property was in the name of Teresa B. and Joseph M. Hamilton by way of a quitclaim deed dated May 3, 2005 and recorded with the Plymouth District of the Land Court as Document #585404.

The subject property is located in the A-3 Residential District and lies within the Town of Scituate Flood Plain and Watershed Protection District and within FEMA flood Zone X as shown on FIRM 250820007E dated October 16, 2003. It does not lie within the Town of Scituate Water Resource Protection District. There is a single-family dwelling existing on the property. The Assessor’s field card shows that the dwelling on the property was constructed in 1953.

**DETERMINATION ON ZONING BYLAW CONFORMITY:** The Dimensional Regulations for lots and residential dwellings in the A-3 District are as follows -

- Lot area for a single family dwelling - not less than 10,000 square feet of upland;
- Lot frontage on a street or way - not less than 100 feet;
- Lot width at the dwelling - not less than 100 feet;
- Setback from any street or way - not less than 30 feet;
- Side yard setback - not less than 8 feet;
- Rear yard depth - not less than 8 feet for a one-story detached accessory building and not less than 20 feet for all other buildings.

According to documents examined at the hearing, the existing lot and buildings do not conform to current zoning requirements with respect to -

- Lot area – 3,200 square feet of upland;
- Lot frontage on a street or way – 40 feet;

- Lot width at the dwelling – 40 feet;
- Setback from street – 22 feet;
- Side yard setback – 7 feet;
- Rear yard depth – 10 feet.

The Board determined that the subject dwelling was in existence prior to the establishment of the Scituate Zoning Bylaw lot frontage and width provisions in 1953 and setback requirements in 1956. Therefore, the Board finds that the property enjoys pre-existing, non-conforming status and the protections afforded by MGL 40A Section 6.

**PROPOSED PROJECT:** The Board reviewed the following documents provided by the Applicants -

1. Site plan drawn by Gerald D. Crowe, 52 Smith Street, Quincy, MA dated April 18, 2008 (one sheet).
2. Architectural plans prepared by Choo & Company, Inc., 116 South Street, Boston, MA dated July 14, 2006 and revised March 18, 2008 (one sheets).

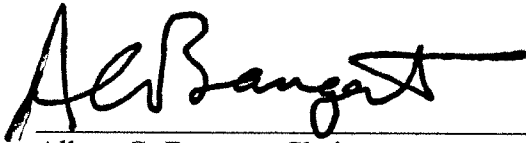
The Applicants propose to add a story and a half to their existing dwelling. The revised structure will conform to the existing footprint of the existing dwelling, including the one-story enclosed front porch. No new non-conformities nor extensions of existing non-conformities shall be introduced by this proposed project.

The Applicants presented a signed document from 8 neighbors indicating their support of the proposed project. No one in attendance at the Public Hearing spoke in opposition to the proposal.

Pursuant to Section 1030.2 of the Bylaw, the Board finds that a) the lot is appropriate for a single-family dwelling, b) the reconstructed dwelling should not adversely affect the neighborhood, c) the use will not create any undue nuisance or hazard to vehicles or pedestrians, d) the Town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single-family dwelling, e) the proposed use of dwelling will not have a significant impact on any public or private water supply, and f) the lot is not located within the Water Resource Protection District. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the relevant bylaw took effect, that there is no difference in the quality or character, as well as the degree of use, and the proposed use is not different in kind in its effect on the neighborhood.

**THEREFORE**, the Board unanimously voted to GRANT the Applicants a Special Permit under SZB Section 1020.2 and Section 820 and a Finding under MGL Chapter 40A Section 6 that the proposal to add a story and a half addition to the dwelling located at 10 Emerson Road, Scituate, Massachusetts as presented by the Applicants is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determined that the Applicants may construct said dwelling addition provided that it is constructed as proposed at the hearing and it is completed within two years.

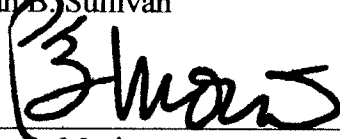
**ZONING BOARD OF APPEALS**



Albert G. Bangert, Chairman



Brian B. Sullivan



Peter B. Morin

Filed with the Town Clerk on: 5/21/08

This Special Permit will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds after the appeal period of twenty (20) days.

Appeal of any decision of the Zoning Board of Appeals may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.