



Decision of the Scituate Zoning Board of Appeals ("the Board") on the application of Martin Thomae, 11 Second Avenue, Scituate, MA ("the Applicant") for a Finding under Massachusetts General Law ("MGL") 40A Section 6 and a Special Permit under Scituate Zoning Bylaw ("SZB") 1020.2 to raze and reconstruct a non-conforming garage located at 11 Second 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 Martin H. Thomae and Ann M. Thomae by way of a quitclaim deed dated October 1, 2002 and recorded with the Plymouth District of the Land Court as Document #222030.

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 250820002D dated July 2, 1992. It does not lie within the Town of Scituate Water Resource Protection District. There is a single-family dwelling and detached garage existing on the property. The Assessor's field card shows that the dwelling on the property was constructed in 1915. The one-storey detached garage is of similar style and construction.

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-storey 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 -

- Setback from street - 16.4 feet;
- Rear yard depth - less than 1 foot for the one-storey detached garage.

The Board determined that the subject dwelling and garage was in existence prior to the establishment of the Scituate Zoning Bylaw setback requirements in 1956. Therefore, the Board finds that the structures enjoy 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 Applicant -

1. Site plot plan drawn by William M. King & Associates, 712 Country Way, Scituate, MA dated February 2, 2000 (one sheet).
2. Architectural plans prepared by the Applicant (five sheets).

The Applicant proposes to raze the existing garage and reconstruct a 24-foot by 24-foot two-storey garage. The replacement structure shall be no closer to the rear property line than the current non-conforming garage. No new non-conformities or extensions of existing non-conformities shall be introduced by this proposed project.

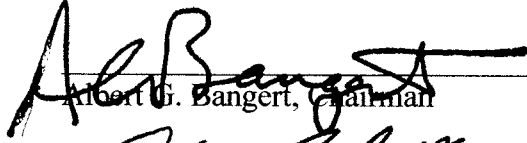
No one in attendance at the Public Hearing spoke in opposition to the proposal.

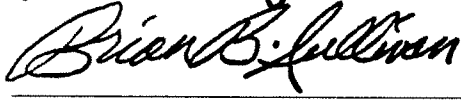
Pursuant to Section 1030.2 of the Bylaw, the Board finds that a) the lot is appropriate for a single-family dwelling, b) the reconstructed garage should not adversely affect the neighborhood, c) the use will not create any undue nuisance or hazard to vehicles or pedestrians, d) the Town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the replacement garage, e) the proposed use of garage 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.

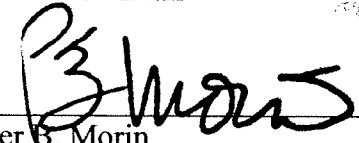
THEREFORE, the Board unanimously voted to GRANT the Applicant a Special Permit under SZB Section 1020.2 and Section 820 and a Finding under MGL Chapter 40A Section 6 that the proposal to raze and reconstruct the garage located at 11 Second Avenue, Scituate, Massachusetts as presented by the Applicant is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determined that the Applicants may raze and reconstruct said garage with the following conditions:

- it shall be constructed as proposed at the hearing,
- it shall be completed within two years following the razing of the existing building, and
- the reconstructed structure shall not be used as a dwelling.

ZONING BOARD OF APPEALS


Albert G. Bangert, Chairman


Brian B. Sullivan


Peter B. Morin

Filed with the Town Clerk on: June 19, 2008

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.