



Decision of the Scituate Zoning Board of Appeals on the application of David Devine of 117 River Street, Humarock, Massachusetts, (hereinafter, the "Applicant") for a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6, and Scituate Zoning Bylaw (the "Bylaw") Sections 810.2 that the reconstruction/extension/alteration by reconstructing an existing conforming single family residential structure on a nonconforming lot, and the proposed structure, although greater than 20% larger, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or lot.

The application was received, advertised and a public hearing was duly held on December 15, 2011, with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin
Brian B. Sullivan
Sara Trezise

The subject property (the "Subject Property") at 117 River Street is in the name of the Applicant pursuant to a quitclaim deed dated May 19, 2011 and recorded with the Plymouth County Registry of Deeds, Land Court Document 0677908, at Book 580, page 37. The subject property is located in Residence R-3 Zoning District, and is not located within the Water Resources Protection District. The Applicant has provided a copy of the current tax assessment from the Town of Scituate which indicates that the single family dwelling on the Subject Property was constructed in 1948, prior to the adoption of zoning in the Town of Scituate. The only pre-existing nonconformities of the Subject Property are (a) lot frontage of 50.0 feet is less than the required 100', and (b) lot width is 50.0 feet, less than the required 100'. The width through the house is less than that required by the by law, the front yard setback of 29.7 feet is an encroachment into the 30 foot setback in the district, and the lot area of 4821 square feet, is less than the 10,000 square foot requirement of the district.

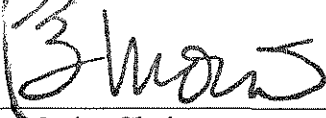
The Applicant proposes to raze the existing dwelling on the property and construct a new larger single family dwelling on a wood pile foundation. The footprint of the proposed dwelling is the same as the existing dwelling. All setbacks will conform to the existing dimensions of the current footprint, with the exception of the front yard encroachment which will be reduced by .1 foot. The gross floor area will be increased by more than 20%; 1088 square feet to 2400 square feet, or 120% greater.

According to M.G.L. Ch. 40A Section 6 provides that "pre-existing nonconforming structures and uses may be extended or altered, provided, that no such extension or alteration be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming [structure or] use to the neighborhood."

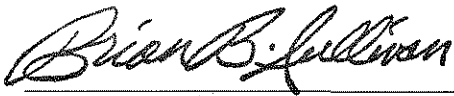
The Board specifically finds that the existing single family dwelling is a pre-existing non-conforming structure/use entitled to the protection afforded in M.G.L. Ch. 40A Section 6. The pre-existing, non-conformities will remain unchanged after the proposed project. There will be a larger home on the property, but the Board noted this is a neighborhood of homes similar in size to the proposed structure. As the use, residential, pre and post construction, will remain unchanged, and is conforming; there is not an intensification of the use. The structure or use will not be substantially different in character or substantially more detrimental or injurious to persons, property, or improvements in the vicinity.

The home and parking will be similar to and consistent with other homes in the neighborhood. For the foregoing reasons, the Board unanimously voted to FIND that the proposed addition to the current residence on the pre-existing, non-conforming lot would not be more substantially detrimental to the neighborhood than the current residence on the property, and to GRANT the Applicant a special permit and the requested findings to permit the razing and reconstruction of the single family dwelling in accordance with the submitted plans prepared by Ross Engineering, of Norwell, MA, 02061, and dated October 20, 2011, entitled "Site Plan for 117 River Street in Scituate, Massachusetts".

ZONING BOARD OF APPEALS



Peter Morin, Chairman



Brian Sullivan



Sara Trezise

Filed with Town Clerk on: February 27, 2012.

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.