

Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY
SCITUATE, MASSACHUSETTS 02066
(781) 545-8716



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Decision of the Scituate Zoning Board of Appeals on the application of R. Stephen and Kristen Lilly, 147 Border Street, Scituate, Massachusetts for a Special Permit under section 610.2 B of the Zoning By-laws of the Town of Scituate to erect a single family residential dwelling on one (1) of two (2) fifty (50) foot frontage lots created by the division of an existing conforming lot upon which there exists a single family residential dwelling.

The application was received, advertised, and a public hearing was duly held on October 20, 2011, with the following members of the Zoning Board of Appeals hearing the application, board member and chairman, Peter Morin, having recused himself from participation due to a potential conflict of interest:

Brian B. Sullivan, Acting Chairman
Edward Tibbetts
John Hallin

The property located at 147 Border Street, is in the A-2 residential district and is owned by the applicant pursuant to a Certificate of Title on file with the Land Court Registry District of Plymouth County as Certificate No. 94144. The applicants were present and represented by Attorney Steven M. Guard of Norwell, MA and with him was surveyor and project engineer, Edward Stone of EAS Survey, Inc., 141 Route 6A, Sandwich, MA 02563.

Submitted with application and received by the board were the following:

1. Special Permit Plan dated October 12, 2011 by EAS Survey, Inc.;
2. Existing Conditions Plan dated October 5, 2011 by EAS Survey, Inc.;
3. Topographical Plan dated July 1915 by Ralph D. Cornell; and
4. Photographs of the subject premises and access thereto.

The existing structures and uses conform with the current zoning bylaw requirements for the district in all respects. The existing Lot, prior to division has 102 feet of frontage and contains approximately 207,944 square feet of land according to the submitted survey with 201,678 square feet of such land being upland. There exists upon the subject premises various stone walls, a single family residential dwelling, detached garage, pool and dock. Access to the existing dwelling is over its frontage via an access road, which also services adjacent land and a nearby residential dwelling not part of the subject premises.

The applicant proposes to divide the property into two so called Fifty Foot Frontage lots consistent with section 610.2 B of the Scituate Zoning By-Law. One such lot will be for the existing residential dwelling and the applicant proposes to erect a new detached single family residential dwelling on the other. Each lot will have a minimum of 50 feet of frontage on Border Street and will contain more than twice the required square footage of upland area for the district. Each proposed lot will also meet or exceed the other dimensional requirements of Fifty Foot Frontage Lots. The applicant proposes no new curb cut and to utilize the existing access road for access to both the existing dwelling and the new dwelling to be erected. The applicant further proposes that the common driveway requirement for two adjoining Fifty Foot Frontage Lots is not applicable in this case as the access road currently in use to access the existing dwelling and an other nearby dwelling as well as adjacent land is of sufficient grade and width and is a way that has been in existence since circa 1915 and as such prior to the implementation of the said common driveway requirement.

After a public hearing which was duly noticed and well attended by members of the community, the Board made the following findings, based upon the applicant's representations:

- a. The use of the premises and the structures thereon are conforming; b. The proposed division of the premises meets or exceeds the minimum requirements for the creation of two adjoining Fifty Foot Frontage lots consistent with section 610.2 B of the By-Laws and the erection of a single family detached residential dwelling; c. The proposed reduction in size of the existing conforming lot is allowed by section 610.4 of the By-laws whereby such lot shall not be reduced in size so that the area remaining has less than the area and dimensions required by this section, in this case, namely section 610.2 B; d. The existing access to the premises is sufficient and as there is already only one curb cut and the access road currently used to access the premises has been in existence and consistently used as such since approximately 1915.

The Board approves the application based on the plans as submitted, and finds that the Applicant has met the standard for the issuance of a Special Permit under section 610.2 B for two Fifty Foot Frontage lots and to erect a detached single family residential dwelling thereon. Therefore the Board did vote unanimously to issue a Special Permit subject to the following conditions:

- 1. Applicant shall notation on the plan to be recorded that no further division of the two Fifty Foot Frontage lots, subject to this Special Permit, shall be permitted.
- 2. There shall be no further subdivision of the premises;
- 3. The existing access road shall be utilized to access the existing dwelling and the new dwelling and there shall be no new curb cuts.

ZONING BOARD OF APPEALS



Brian Sullivan, Acting Chairman



Edward Tibbetts



John Hallin

Filed with the Town Clerk on: November 2, 2011.

This Special Permit/Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County 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.