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11-1-SS.

Decision of the Scituate Zoning Board of Appeals on the application of Jericho Road Condominiums, LLC by its manger, James P. Lewis of 61 Accord Pond Park Drive, Norwell, MA, under Scituate Zoning By-law 830, to allow the razing and reconstruction of the pre-existing non-conforming structure on the property which was destroyed by accidental cause in 2010..

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, Chairman
Brian Sullivan
Sara Trezise

The property is located at 153 Jericho Road. The building on the property is a six unit multi-family structure which according to Town Assessors records was constructed in 1930. The property was heavily damaged in a nor-easter on December 26, 2010. As the result, the property was declared uninhabitable and condemned.

The Applicant has a purchase and sales agreement with the present owners for the purchase of the property. The purchase and sale was signed by "James P. Lewis, Manager for Key North Realty, LLC, or nominee" and since has been assigned to Jericho Road Condominiums, LLC. The purchase is contingent upon the applicant obtaining the necessary zoning and building permits to reconstruct the damaged structure.

Scituate Zoning By-law section 830 in relevant part states: "A nonconforming structure or use damaged or destroyed by accidental causes may be repaired, reconstructed or restored either within the same portion of the lot or within a different portion of the lot provided that doing so renders the structure less non-conforming than previously and used as before, provided that such repair, reconstruction or restoration shall be completed within four years of said accidental damage or destruction"...

The property is located in the R3 zoning district. The subject property consists of two separate lots which are non-conforming individually as well as when combined. The

existing structure, lot size, lot frontage, lot width and all but one property line setback are non-conforming, but were pre-existing to the current regulations.

The following table describes the existing and proposed setbacks relative to current applicable dimensional requirements contained in Section 600 – Dimensional Regulations for District R3:

	Lot Area	Lot Width	Frontage	Property Line Setbacks - Front	Property Line Setbacks – Side	Property Line Setbacks – Rear
Required	10,000 SF	100'	100'	30'	8'	20'
Existing	4,985 SF	80'	80'	0'	8.9 and 2.5'	12.7'
Proposed	4,985 SF	80'	80'	3'	8.1 and 2.6'	9.7'

The current structure presently consists of six residential units and on-street parking only. The Applicant intends to raze the existing structure and replace it with a larger structure, although on basically the same footprint, but with only four residential units and off street parking for each unit. The parking for each unit will be underneath the structure and will sit 9 ft. above grade. This will bring the parking for the property off the street where it presently creates a significant hazard to vehicles and pedestrians traveling along Jericho Road.

The new structure will conform to current height requirements. Whereas the face of the existing structure lies directly on the front property line of Jericho Road, the proposed structure will be setback 3' from said front line. The left side yard setback will be slightly less non-conforming at 2.6 feet while the right side yard setback will be conforming at 8.1'. In order to maintain a greater front yard setback, the proposed rear yard setback will be reduced proportionately. Although this creates a new non-conformity in the rear, the board thought it was an acceptable trade off for the significant reduction in the front yard set back citing the aforementioned safety concerns. Additionally, as the rear yard overlooks an open parking lot owned by the town, the reduction in the rear setback will not adversely affect any abutting property owner.

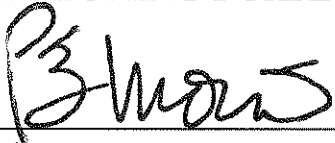
Since the present structure is both non-conforming dimensionally and in its use as a multi-family structure to its zoning district, which was damaged by accidental case (the nor-easter of December 26, 2010) and the applicant proposes to reconstruct the structure within a different (albeit only slightly) portion of the lot rendering the structure less non-conforming than previously, and with due consideration of the hazards caused by the present on-street parking, the Board voted to approve the application.

In approving this application, the Board found the criteria required under Section 950.3 A through E will be satisfied by the present plans as follows:

- A. The locus is in a residentially zoned district. As such the specific site is an appropriate location for both the use and structure.
- B. The proposed use will not adversely affect the neighborhood as there will be a 33% reduction in the number of units (6 units to 4 units). This will result in less traffic and occupants. The property will remain a residential use.
- C. There will be no undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure. The use will remain the same. However, with a reduction in the number of units and a larger front yard setback there will be less vehicular traffic and ample room for pedestrians as a result of the project as proposed and safety in the area will be improved.
- D. Adequate and appropriate facilities will be provided to assure the proper operation of the proposed use and structure. Current environmental, health and building codes require that the Building Commissioner issue a building permit only upon his satisfaction as to complete and total compliance with the aforesaid codes.
- E. Whereas the structure will be serviced by Town water and sewer and whereas there are no known potable wells within 100' of the locus, there will be no impact on any public or private water supply.

For the foregoing reasons, the Board unanimously voted to GRANT the application to permit the razing and reconstruction of the current 6 unit muti-family dwelling and permit construction of the four unit multi-family family dwelling as proposed on the plans submitted by the applicant dated October 10, 2011 by Ross Engineering Company, Inc., FINDING that the same will not be substantially more detrimental to the neighborhood than the current pre-existing nonconforming dwelling.

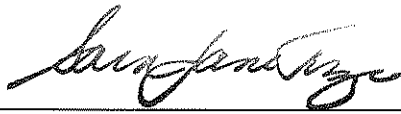
SCITUATE ZONING BOARD OF APPEALS



Peter Morin



Brian Sullivan



Sara Trezise

Filed with the Town Clerk on: February 14, 2012.

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.