

Town of Scituate

ZONING BOARD OF APPEALS

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



2011 JUN 17 P 2:51

6.10.33.

Decision of the Scituate Zoning Board of Appeals on the application of Greenbush Realty Trust, Robert Burwick of P.O. Box 152, Greenbush, MA (hereinafter, the "Applicant") for a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6, to change the use of a non-conforming building from paint and hardware retail to restaurant and dance studio.

The application was received, advertised and a public hearing was duly held on July 20, 2011, with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin
Brian B. Sullivan
Sara J. Trezise

The subject property (the "Subject Property") at 17 New Driftway is owned by Robert J. Burwick of Norwell, Plymouth County, Massachusetts and Salvatore J. Giglio of Carver, Plymouth County, Massachusetts Trustees of Greenbush Realty Trust (See Deed filed with the Plymouth County Registry of Deeds, Book 4930, Page 336). It is located in Business B Zoning District, and is not located within the Water Resources Protection District. The Subject Property has 125 feet of frontage on New Driftway. The only pre-existing nonconformities of the Subject Property are (a) side yard setback of 2.9 feet is less than the required 8', and (b) rear yard setback is 7.8 feet, less than the required 8'. In all other respects, the lot and the building are conforming.

The Applicant proposes to change the use of the Subject Property, currently a retail paint and hardware store to a restaurant and dance studio. Both uses are allowed by right in the Business district.

M.G.L. Ch. 40A Section 6 provides that "Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall 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 use to the neighborhood."

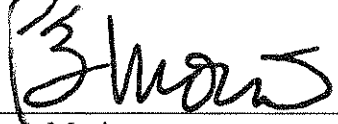
The Board specifically finds that the existing building is a pre-existing nonconforming structure entitled to the protection afforded in M.G.L. Ch. 40A Section 6. Based on the information presented, the Board finds that the proposed structure and use will not be substantially more detrimental to the neighborhood than the existing nonconforming structure and use, and that the proposed 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 Board is also satisfied that the criteria set forth in the Section 950.3 of the Zoning Bylaw have been met, and specifically that (A) the Subject Property is an appropriate location for the proposed structure or use, (B) the proposed use as developed will not adversely affect the neighborhood, (C) there will not be an undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure, (D) adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use or structure, and (E) there will not be any significant impact on the public or private water supply.

For the foregoing reasons, the Board unanimously voted to grant the Applicant the requested findings to change the use of the pre-existing non-conforming building in accordance with the submitted plans prepared by Morse Engineering Co., Inc., 19 Union Street, P.O. Box 92, Scituate, MA 02066 entitled "Site Plan #17 New Driftway, (Assessor's Map 53, Block 5, Lots 27-31) Scituate, MA", dated July 5, 2011 and any minor amendments thereto as may be required by the Scituate Planning Board. The Board further unanimously voted to grant the said findings. This finding is issued pursuant to Zoning Bylaw Sections 810.1, 810.3, 820, and 950, and G.L. Ch. 40A, Section 6.

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Filed with Town Clerk on: August 17, 2011.

This finding 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.