

# Town of Scituate

## ZONING BOARD OF APPEALS

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



Decision of the Scituate Zoning Board of Appeals on the application of Michael and Patricia Murphy 38 Georganna Street, Braintree, Massachusetts for a finding/special permit pursuant to M.G.L. Chapter 40A, Section 6 and Zoning Bylaw section 810.2 to raze and reconstruct pre-existing non-conforming structures, namely a single family residential dwelling and accessory building, located at 26 Buttonwood Lane, Scituate, MA.

The application was received, advertised, and a public hearing was duly held on February 16, 2012 with the following members of the Zoning Board of Appeals hearing the application:

Sara Trezise, Acting Chairperson  
Edward Tibbetts  
Brian B. Sullivan

The property at 26 Buttonwood Lane in the A-3 residential district is owned by the applicant pursuant to a deed recorded with the Plymouth County Registry of Deeds in Book 40741 at Page 248. The applicant was represented by Attorney Steven M. Guard of Norwell, MA and with him were Phil Spath of Spath Engineering, Inc. of Norwell, MA and Michael Ball of Michael Ball Contracting of Scituate, MA.

The lot is conforming as to size but non-conforming as to frontage (56.25'). The two existing structures do not comply with the current zoning bylaw requirements as to front and side yard setbacks.

The applicant proposes to raze both existing structures and reconstruct each of them in altered locations so as to be less non-conforming than the existing structures:

- (a) the existing shed so as to be no closer to the front property line than one and one half (1.5) feet (a decrease in the current non-conforming front yard setback of 0 feet), and no closer to the side yard property line than five and one half (5.5) feet (unchanged);
- (b) the existing dwelling so as to be no closer to the side yard property line than six (6) feet (an increase in the current closest non-conforming side yard setback of four and 8/10 (4.8) feet), and maintaining the existing front yard setback of thirty-one (31) feet.

After a public hearing, which was duly noticed and advertised, the Board made the following findings, based upon the applicant's representations:

- a. The existing structures and lot dimensions do not comply with the current zoning bylaw requirements as to lot frontage and front and side yard setbacks, as described above.
- b. The entire lot is within 100 feet of bordering vegetated wetlands ("BVW"), and both existing structures are within 50 feet of the BVW.
- c. Both the existing and proposed structures will be located outside of the FEMA AE Zone (elev. 11").
- d. The reconstructed structures as proposed will otherwise comply with applicable zoning bylaw requirements.


MGL 40A § 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 the 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."

For the foregoing reasons, based upon the application, plans and testimony submitted by the applicant, the Board voted unanimously to GRANT the Applicants' request for a special permit and the requested finding that the proposed use and plans are not substantially more detrimental to the neighborhood than the buildings and uses now existing and that the Applicant has met the standard for a M.G.L. 40A §6 finding and the issuance of a Special Permit in accordance with the plans prepared by Spath Engineering, Inc., 433 Washington Street, Norwell, MA, entitled "Proposed Building Location Plan at 26 Buttonwood Lane, Scituate, MA" dated January 19, 2012.

As a condition to the granting of the relief requested, the existing 16' x 10.4' shed also located on the property shall be removed and shall not be replaced.

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Sara Trezise, Acting Chairperson

  
Brian Sullivan

  
Edward Tibbetts

Filed with the Town Clerk on: March 5, 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.