Town of Scituate

Decision of the Scituate Zoning Board of Appeals on the application of Maria Lobo Andrade and Joseph S. Andrade and of 27 Jenkins Place, Scituate, MA (hereinafter referred to as "Applicants") for a Special Permit/Finding under M.G.L. Chapter 40A, Section 6 that would allow two existing, non-conforming dwellings located at 27 Jenkins Place, Scituate, MA, to be torn down and replaced with a single new dwelling that will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

The application was received, advertised, and a public hearing was duly held on June 17, 2010 with the following members of the Zoning Board of Appeals hearing the application:

> Peter Morin, Chairman
> Brian B. Sullivan
> John Hallin

The subject property is located at 27 Jenkins Place, Scituate, MA (hereinafter, the "Subject Property") is located in the A-2 residential district. The Subject property is owned by the applicant, Maria Lobo Andrade, (See quitclaim deed filed with Plymouth County Registry Deeds at book 35496 and page 166-167) and consists of two single-family dwellings that where constructed prior to the adoption of the applicable dimensional zoning bylaws in 1953. The dwellings therefore, enjoy grandfathered status.

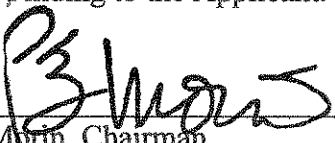The Dimensional Regulations for residential dwellings in an A-2 district are as follows:

1. Required lot area is 20,000 square feet
2. Required lot frontage is 100 feet
3. Required front yard set back is 30 feet
4. Required side yard set back is 15 feet
5. Required rear yard set back is 30 feet
6. Required lot width is 100 feet
7. The Maximum height is 35 feet as measured under Section 620 of the   SZB

The existing dwellings are dimensionally nonconforming as to lot area, which is 16,736 square feet, side setback, which is 2.6 feet, front setback, which is 7.86 feet and two dwellings on one lot. The applicant proposes to raze the two existing dwelling and construct one new single-family dwelling that will be 2.6 feet from the side setback, 7.86 feet from the front setback, 80 feet lot width, and dimensionally conforming to rear setbacks and as to height in accordance with a plot plan by Neil J. Murphy Associates, Inc dated May 18, 2010.
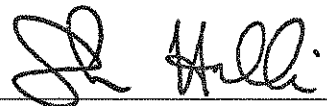
The Board discussed the 2.6' setback with the applicant, and the applicant agreed that the location of the proposed new dwelling would be revised to provide a minimum side setback of 5 feet.

Under the second except clause of the first paragraph of Section 6 of M.G.L. ch. 40A, reconstruction of a pre-existing nonconforming single or two-family residential structure is permitted as a matter of right if the reconstruction does not increase the existing nonconforming nature of said structure. The Board determined that, based on the Applicants' representations, the new dwelling to be constructed on the property will not intensify any existing nonconformities or increase the nonconforming nature of the structures. Accordingly, the Applicant may construct a new dwelling in accordance with a revised plan indicating the revised location of the dwelling, provided that, in accordance with Section 810 of the Zoning Bylaw reconstruction of the dwelling is completed within two (2) years following the razing of the existing dwellings.

In view of the foregoing, the Board voted unanimously to grant the requested Special Permit/Finding to the Applicant.

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Peter Myrin, Chairman

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Brian Sullivan

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John Hallin

Filed with the Town Clerk on: July 12, 2010.

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.