



Decision of the Scituate Zoning Board of Appeals ("the Board") on the application of Ms. Heidi AH Condon of HC Design, PO Box 238 Cohasset, MA ("the Applicant") for a Finding under Massachusetts General Law ("MGL") 40A Section 6 and a Special Permit under Scituate Zoning Bylaw ("SZB") 1020.2 to allow the reconstruction of the single-family dwelling located on a pre-existing, nonconforming lot at 29 Bayberry Road, Scituate, Massachusetts ("subject property").

The application was received, advertised and an initial public hearing was opened on January 17, 2008, and continued at the Applicant's request to March 20, 2008 with the following members of the Zoning Board of Appeals hearing the application -

Albert G. Bangert, Chairman
Brian B. Sullivan
Sara J. Trezise

DESCRIPTION OF THE PROPERTY: At the time of the application, title to the subject property was in the name of Ronald Monahan by way of a quitclaim deed dated May 7, 1986 and recorded with the Plymouth County Registry of Deeds in Book 366, Page 9. The Applicant presented a signed affidavit from Mr. Monahan giving her permission to apply for the Special Permit that is the subject of this decision.

The subject property is located in the A-2 Residential District and lies within the Town of Scituate Flood Plain and Watershed Protection District. It does not lie within the Town of Scituate Water Resource Protection District. There is a single-family dwelling and detached garage existing on the property. The Assessor's field card shows that the dwelling on the property was constructed in 1920.

DETERMINATION ON ZONING BYLAW CONFORMITY: The Dimensional Regulations for lots and residential dwellings in the A-2 District are as follows -

- Lot area for a single family dwelling - not less than 20,000 square feet of upland;
- Lot frontage on a street or way - not less than 100 feet;
- Lot width at the dwelling - not less than 125 feet;
- Setback from any street or way - not less than 30 feet;
- Side yard setback - not less than 15 feet;
- Rear yard depth - not less than 8 feet for a one-story detached accessory building and not less than 30 feet for all other buildings.

The existing lot and buildings do not conform to current zoning requirements with respect to -

- Lot area - approximately 12,110 square feet;
- Lot width at the dwelling - 102 feet;
- Setback from street - 13.7 feet;
- Side yard setback - 2.9 feet (garage), 12.5 feet (dwelling).

The Board determined that the subject dwelling was in existence prior to the establishment of the Scituate Zoning Bylaw lot size, frontage and width provisions in 1953 and building height and setback requirements in 1956. Therefore, the Board finds that the property enjoys pre-existing, non-conforming status and the protections afforded by MGL 40A Section 6.

PROPOSED PROJECT: The Board reviewed the following documents provided by the Applicant -

1. Site plan drawn by Cavanaro Consulting, 687 Main Street, Norwell, MA dated 12/26/07 and revised on 3/18/08, et, Norwell, MA, dated August 10, 2007 (one sheet)
2. Architectural plans prepared by HC Design, Cohasset, MA, dated 3/17/08 (seven sheets)
3. Foundation plans prepared by Rivermoor Engineering, 10 New Driftway, Scituate, MA, dated 3/14/08 (three sheets).

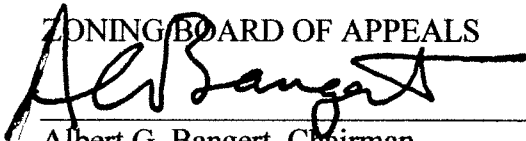
The Applicant proposes to raze the existing dwelling and garage and replace them with a new single-family dwelling, which shall not to exceed 35 feet in height at the ridgeline. The location of the new residence on the lot shall be at least 15 feet from the easterly and westerly property lines and thus eliminate the side yard nonconformity. Further, the building shall be at least 18 feet from Bayberry Road, thus reducing the street setback nonconformity.

No one in attendance at the Public Hearing spoke in opposition to the proposal.

Pursuant to Section 1030.2 of the Bylaw, the Board finds that a) the lot is appropriate for a single-family dwelling, b) the reconstructed dwelling should not adversely affect the neighborhood, c) the use will not create any undue nuisance or hazard to vehicles or pedestrians, d) the Town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single-family dwelling, e) the proposed use of dwelling will not have a significant impact on any public or private water supply, and f) the lot is not located within the Water Resource Protection District. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the relevant bylaw took effect, that there is no difference in the quality or character, as well as the degree of use, and the proposed use is not different in kind in its effect on the neighborhood.

THEREFORE, the Board unanimously voted to GRANT the Applicants a Special Permit under SZB Section 1020.2 and Section 820 and a Finding under MGL Chapter 40A Section 6 that the proposal to raze the two buildings located at 29 Bayberry Road, Scituate, Massachusetts and replace them with a new single-family dwelling as presented by the Applicants is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determined that the Applicants may construct said dwelling provided that it is constructed as proposed at the hearing and it is completed within two years following the razing of the existing buildings.

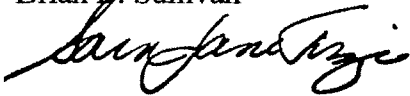
ZONING BOARD OF APPEALS



Albert G. Bangert, Chairman



Brian B. Sullivan



Sara J. Trezise

Filed with the Town Clerk on: 4/15/2008

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.