

Town of Scituate

ZONING BOARD OF APPEALS

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SCITUATE, MASSACHUSETTS 02066
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2012 FEB 14 P 4 13



Decision of the Scituate Zoning Board of Appeals on the application of Scott R. O'Day of 14 Hill St. Cohasset, MA 02025 (hereinafter, the "Applicant") request M. G. L. c40A, Sec 6 special permit/finding to raze, reconstruct and increase gross floor area by more than 20 percent, of a pre-existing non-conforming single family dwelling locate at 37 Ely Avenue, Scituate MA.

The application was received, advertised and a public hearing was duly held on Dec. 15, 2011 with the following Board members hearing the application:

Peter Morin, Chairman
Brian Sullivan
Sara Trezise

The subject property at 37 Ely Avenue is owned by Ebba Damon of 12 Meeting House Lane #208, Scituate, MA (Plymouth County Registry of Deeds, Book 25910, pages 151-152). Owner has attached a letter of authorization for Scott R. O'Day. The applicant has provided a copy of the current tax assessment from the town of Scituate which indicates that the single-family dwelling on the subject property was constructed in 1927, prior to the adoption of zoning laws in the Town of Scituate. The subject property is located in an R-2 zone which requires 20,000 square feet. The lot is 14,713 square feet, and is therefore non-conforming. The existing structure encroaches upon the Ely Avenue layout. The proposed setbacks will meet the side, rear and Hatherly Rd. property line setbacks of 15', 30' and 30' respectively. The proposed Ely avenue setback will be 10'. The gross square foot area will increase greater than 20% from existing to proposed (existing 900 s/f, proposed approximately 2,700 s/f), based upon the land survey of Ross Engineering Company, 37 Ely Ave, dated 11/29, 2011.

Pursuant to Section 810.2 of the Scituate Zoning Bylaws, the proposed expansion may be permitted if the Board finds that it meets the conditions of G.L. c.40A §6

G.L. c. 40A § 6 provides that "pre-existing nonconforming structures and use 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."

The board finds that the existing single family dwelling is a pre-existing, nonconforming structure/use entitled to the protection afforded in M.G.L. Ch. 40A section 6.

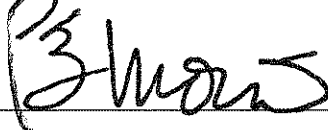
Based on the information presented, the Board finds that the proposed alteration and use will not be substantially more detrimental to the neighborhood than the existing nonconforming structure

and use, and that the proposed structure or use will not be substantially different in character or substantially more detrimental to the neighborhood.

For the foregoing reasons, the Board unanimously voted to grant the Applicant a special permit and the requested finding to increase gross floor area of existing single family dwelling by more than 20% in accordance with the following entitled plans prepared by Ross Engineering Co. Inc., 683 Main Street, Norwell MA 02061, Plot Plan dated November 29, 2011, provided that the following condition is met:

The subject property is encumbered by the presence of an existing water line that runs from Hatherly Road to the property of Walter J. May, Trustee at 35 Ely Avenue. The proposed new structure location will require the relocation of the water line. The applicant shall pay all costs related to such relocation, shall adhere to all requirements of the Scituate water department in relocating the water line, and to the extent feasible, shall make all reasonable efforts to minimize any interruption in water service to the May property.

SCITUATE ZONING BOARD OF APPEALS



Peter Morin, Chairman



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.