



Decision of the Scituate Zoning Board of Appeals on the application of Abraham Murray of 4 Collier Road, Scituate, MA (hereinafter, the "Applicant") for a Special Permit/Finding pursuant to M.G.L. Chapter 40A, Section 6, and Scituate Zoning Bylaw (the "Bylaw") Sections 810.2 that the reconstruction/extension/alteration by razing and reconstructing an existing conforming single family residential structure on a nonconforming lot, and the proposed structure, although greater than 20% larger, will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or lot.

The application was received, advertised and a public hearing was duly held on April 19, 2012, with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin
Brian B. Sullivan
Sara J. Trezise
Edward C. Tibbetts

The subject property (the "Subject Property") at 4 Collier Road is owned by Abraham P. Murray and Francesca A. Moyse (See Deed filed with the Plymouth County Registry of Deeds, Book 36678, Page 161). It is located in Residence A-3 Zoning District, and is not located within the Water Resources Protection District. The Subject Property is 5,010 \pm SF has 50 \pm feet of frontage on Collier Road and an average lot width of 50 \pm feet. 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 1920, prior to the adoption of zoning in the Town of Scituate. The pre-existing nonconformities of the Subject Property are (a) lot frontage of 50 \pm feet is less than the required 100', (b) lot width is 50 \pm feet, less than the required 100', (c) lot area is 5,010 \pm square feet, less than the required 10,000 square feet, and (d) setbacks of

Setback	Required	Existing	Proposed
Front	30.0'	15.5' \pm	15.5' \pm
Side (north)	8.0'	2.0' \pm	2.1' \pm

The Applicant proposes to raze the existing single family dwelling on the Subject Property and replace it with a dwelling that will increase living area more than 20% (approximately 40%).

M.G.L. Ch. 40A Section 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 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 specifically 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.

In addressing whether the proposed use of the new structure will be substantially more detrimental to the neighborhood than the existing nonconforming use or structure, the Board considers the guidelines set forth in Powers v. Building Inspector of Barnstable, 363 Mass. 648 (1973), Derby Refining Company v. City of Chelsea, 407 Mass. 703 (1990), and Building Commissioner of Medford v. McGrath, 312 Mass. 461 (1942).

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 a special permit and the requested findings to raze and reconstruct a single family dwelling in accordance with the submitted plans prepared by Cavanaro Consulting, 687 Main Street, P.O. Box 5175, Norwell, MA 02061 entitled “Site Plan, 4 Collier Road, Scituate”, dated March 26, 201, PROVIDED that the Applicant revised the plans such that

1. Southerly Side Setback not be less than 8’, and that the
2. Northerly Side Setback not be less than 5’, and that the
3. proposed dwelling not exceed 3,000 SF of living area.

This Special Permit and these findings are issued pursuant to Zoning Bylaw Sections 810.2, and 950, and G.L. Ch. 40A, Section 6. The Board further voted to require the applicant to submit a revised plan showing the revised side setbacks and the existing and proposed square feet of living area prior to the issuance of a building permit.

ZONING BOARD OF APPEALS


Peter Morin, Chairman


Brian Sullivan


Sara Trezise

Filed with Town Clerk on: May 3, 2012.

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.