



Decision of the Scituate Zoning Board of Appeals on the application of Steven Grable and Priscilla T. Grable, of 51 Furnace Street, Marshfield, Massachusetts 02050 for a finding under MGL 40A § 6 and a special permit to allow the razing and reconstruction of the pre-existing nonconforming single family dwelling located at 43 Oceanside Drive, Scituate Massachusetts.

The application was received, advertised and a public hearing was duly held on March 15, 2012 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman
Brian B. Sullivan
Sara J. Trezise

The property that is the subject matter of this application is located in the R-3 Residential District and is not located within the Water Resources Protection District.

At the time of the application, title to the premises was in the name of Steven Grable and Priscilla T. Grable, Husband and Wife, as Tenants by the Entirety, by way of a deed dated October 21, 2011, filed and registered with the Plymouth County Registry District of the Land Court as Document No. 683780, and noted on Certificate of Title No. 116698.

The single family dwelling that is the subject matter of the Application is located upon a 7,578 square foot lot that was laid out by a subdivision plan dated August 26, 1943 filed as Plan No. 8507Q and filed with Certificate of Title No. 8681 in the Land Registration Office, and is shown as Lot 891 on said subdivision plan. It is an un-usual lot, with 115.68 feet of frontage along Oceanside Drive, 111.32 feet of frontage along Marion Road; and 46.98 feet of frontage along Eleventh Avenue, all public ways. The dwelling, pursuant to the Scituate Assessor's records, was constructed in 1912. The dwelling currently sits 6.30 feet from Oceanside Drive, 29.8 feet from Marion Road, and 28.9 feet from Eleventh Avenue. The dwelling also currently sits 18 feet, more or less, from the adjacent property on Marion Road (shown as 94 Marion Road on Applicants' Site Plan). The dwelling is serviced by the town's public sewer system.

Property located in the R-3 Residential District which requires 10,000 square feet lot area, 100 feet of lot width, 100 feet of frontage, 30 feet front yard setback, 8 feet side yard set backs, and 20 feet rear yard setback for a dwelling (8 feet for a one story detached accessory structure).

The Board noted that the dwelling was constructed in 1912, and the lot upon which it sits was in existence in 1943, when title thereto was registered with the Land Court. The Board therefore found that the lot was pre-existing to the adoption of subdivision control in Scituate, and nonconforming because of its deficient lot area and lot width; and further found that the single family dwelling was also pre-existing and nonconforming due to the front yard setback from Oceanside Drive. The Board further noted that due to the lot having frontage on three public ways, Section 620.4.E of the Scituate Bylaw requires both the Marion Road and Eleventh Avenue side of the property to be the rear yard(s) of the dwelling, and the adjacent property on Marion Road to be the dwelling's only side yard.

At the March 15, 2012 public hearing, the Board reviewed with the Applicant's attorney the Site Plan dated February 22, 2012 prepared by Merrill Associates, Inc, Registered Professional Engineers and Land Surveyors, Hanover, Massachusetts, showing both existing and proposed conditions. In addition, the Board reviewed with the Applicant a rendering and elevations of the proposed dwelling. A photograph of the site is included on the Assessors's card.

The plans call for the razing and reconstruction of the dwelling. The existing dwelling, a two story three bedroom single family dwelling will be replaced with a two story three bedroom home in which the Applicants intend to reside. The reconstructed dwelling will sit 7.90 feet from Oceanside Drive, 27.3 feet from Marion Road, 20.63 feet from Eleventh Avenue and 18.92 from the adjacent property on Marion Road.

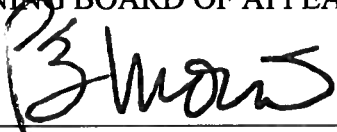
The reconstructed dwelling will therefore decrease the non-conforming front setback from Oceanside Drive. Since the currently existing dwelling does not and the reconstructed dwelling will not encroach upon the two 20' arcs as described in Section 620.4.E, the setback from both Marion Road and Eleventh Avenue conform to the Bylaw. The setback from the adjacent property on Marion Road, as a side yard setback pursuant to said Section 620.4.E, is also conforming.

No one in attendance at the public hearing spoke in opposition to the project. One neighbor spoke in favor of the project.

Based upon the evidence presented, the Board finds that both the lot and existing single family dwelling located at 43 Oceanside Drive pre-exist the adoption of subdivision control in Scituate. The Board finds that the lot is non-conforming as to lot area and lot width, and the single family dwelling is non-conforming as to front yard setback. Both the lot and the dwelling are therefore pre-existing and nonconforming. The Applicants' proposal is therefore entitled to review pursuant to the terms of MGL c. 40A § 6. The Board specifically finds that the re-constructed dwelling as proposed will not increase the non-conforming nature and use of the property to persons, property and improvements in the neighborhood.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicants' request for a finding under MGL Chapter 40A § 6 to allow the proposed razing and reconstruction, extension or structural change to the single family dwelling at 43 Oceanside Drive.

ZONING BOARD OF APPEALS



Peter Morin, Chairman



Brian B. Sullivan



Sara J. Trezise

Filed with the Town Clerk on: March 26, 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.