

Town of Scituate

ZONING BOARD OF APPEALS

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2011 APR 25 P 2:41

FILED 11711A39



Decision of the Scituate Zoning Board of Appeals on the application of Carla Litchfield of 297 Tilden 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 a nonconforming single family residential structure on a nonconforming lot 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 February 16, 2011, with the following members of the Zoning Board of Appeals hearing the application:

Mr. Peter Morin
Mr. Brian Sullivan
Ms. Sara Trezise

The Applicant, Carla Litchfield, presented an executed purchase and sale agreement with the owner of the property, thus conferring on the applicant sufficient standing to seek the requested relief.

The subject property (the "Subject Property") at 46 Gilson Road is owned by Raymond and Barbara Harkin (See Certificate of Title filed with the Plymouth County Registry District of the Land Court in Book 2429 Page 290). It is located in Residence R-2 Zoning District, and is not located within the Water Resources Protection District. The Subject Property has 130 feet of frontage on Gilson Road and a lot width ranging from 130 feet at the street line and 137.16 feet at the rear line. 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 inadequate lot width, inadequate dimensional area and a rear yard encroachment of the dwelling. In all other respects, the lot and the dwelling are conforming.

The Applicant proposes to raze the existing single family dwelling on the Subject Property and replace it with a dwelling of greater size. Even though the new dwelling will be approximately twice the footprint of the existing dwelling, the new dwelling will lessen the rear yard encroachment and meet or exceed all other setback requirements.

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.

Based on the information presented the Board finds that, with the condition hereinafter stated, 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.

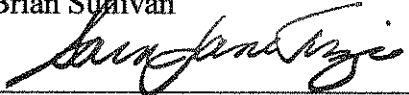
The Board notes that the zoning bylaw does not contain any limitation upon the size of a dwelling upon a lot, so long as the dwelling meets other dimensional requirements, which the proposed dwelling does. The Board further notes that other dwellings in the neighborhood have been expanded in similar fashion.

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 following entitled plans prepared by Environmental Engineering Technologies, Inc, 465 Furnace Street, Marshfield, MA 02050, dated December 28, 2010 and revised on January 27, 2011.

ZONING BOARD OF APPEALS


Peter Morin


Brian Sullivan


Sara Tresize

Filed with Town Clerk on: April 25, 2011.

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.