

Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY
SCITUATE, MASSACHUSETTS 02066
(781) 545-8716



Decision of the Scituate Zoning Board of Appeals (hereinafter referred to as "the Board") on the application of Brian and Nancy Jones, 6 Michael Avenue, Scituate, MA (hereinafter referred to as "the Applicants") for a Finding and a Special Permit under Massachusetts General Law (MGL) Chapter 40A, § 6 to allow the extension of the pre-existing, nonconforming single-family dwelling located at 6 Michael Avenue, Scituate, MA (hereinafter referred to as "subject property").

The application was received, advertised and a public hearing was duly held on May 17, 2007 with the following members of the Zoning Board of Appeals hearing the application:

Agnes Rona, Acting Chairperson
Brian B. Sullivan
Albert G. Bangert

Attorney Maureen Hurley of 25 Bittersweet Drive, Scituate, MA 02066 represented the Applicant at the hearing.

At the time of the application, title to the subject property was in the name of Brian Jones and Nancy Jones as set forth in a deed recorded at Plymouth County Registry of Deeds at Book 18799, Page 161 dated August 17, 2000. The subject property contains a single-family residence and two detached garages.

The subject property is located in the A-3 Residential District. The Town of Scituate Assessor's field card states that the single-family dwelling located upon the lot was built in 1900, and therefore predates the adoption of the Scituate Zoning Bylaws. The Board made the determination that the subject property enjoys grandfathered status with respect to the requirements of the aforementioned Zoning Bylaws.

The Dimensional Regulations for residential dwellings in an A-3 district are as follows -

- Lot area for a single family dwelling is not less than 10,000 square feet;
- Lot frontage on a street or way is not less than 100 feet;
- Lot width at the dwelling is not less than 100 feet;
- Setback from any street or way is not less than 30 feet;
- Side yard setback is not less than 8 feet; and
- Rear yard depth is not less than 8 feet for a one-story detached accessory building and not less than 20 feet for all other buildings.

Presently the existing structure is nonconforming with respect to -

- Rear yard depth – 0 feet for the two one-story detached garages and 14.7 feet for the dwelling.

At the May 17, 2007 public hearing, the Board reviewed the Applicants' proposal to raze the two existing one-story detached garages and reconstruct a garage with a connection to

the dwelling as shown on a plan entitled "Site Plan, 6 Michael Avenue, Prepared for Brian & Nancy Jones, 6 Michael Avenue, Scituate, MA" by Cavanaro Consulting, 687 Main Street, Norwell, MA dated March 12, 2007. The proposed addition to the dwelling will be at a distance no less than 14.7 feet from the rear property line and no less than 8 feet from the westerly property line.


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

Based upon the evidence presented, the Board finds that both the lot and existing single-family dwelling located at 6 Michael Avenue pre-exist the adoption of Scituate Zoning Bylaws and are non-conforming to the Bylaw. Further, the Board finds that the Applicants' project as described and presented in plans on record does not constitute an intensification of the pre-existing non-conformity.

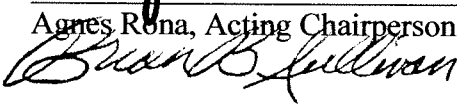
Pursuant to Section 1030.2 of the Bylaw, the lot is appropriate for a single-family dwelling. The use of the modified structure should not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single-family dwelling. The proposed use of dwelling will not have a significant impact on any public or private water supply, and 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 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 Scituate Zoning Bylaw Section 820 and Section 1020.2 and a Finding under MGL Chapter 40A Section 6 that the proposal to raze the two pre-existing nonconforming detached garages located at 6 Michael Avenue, Scituate, Massachusetts and replace them with an extension of the pre-existing non-conforming dwelling structure as presented by the Applicants is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determines that the Applicants may construct said extension provided that it is constructed in accordance with the Zoning Bylaw, and that construction of the extension is completed within two years following the razing of the existing detached garages.

ZONING BOARD OF APPEALS



Agnes Rona, Acting Chairperson



Brian B. Sullivan



Albert G. Bangert

Filed with the Town Clerk on 5-30-07

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.