

Town of Scituate

ZONING BOARD OF APPEALS

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



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Decision of the Scituate Zoning Board of Appeals on the application of James J. Kenney, Jr. of 615 Country Way (hereinafter, the "Applicant") for a special permit/finding under MGL 40A § 6 to extend a pre-existing non-conforming side yard setback.

The application was received, advertised and a public hearing was duly held on May 18, 2011 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman
Brian Sullivan
Sara J. Trezise

The subject property (the "subject Property") at 615 Country Way is owned by James J. Kenney Jr. and Renate K. Kenney, husband & wife per Certificate of Title No. 113294 filed with the Plymouth County Registry District of the Land Court, Registration Book 566, Page 94. Is located in the Residence A-2 Zoning District, and is not located in the Water Resource Protection District. The subject property has 83-feet of frontage on Country Way and is 19,324 square foot in area. 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 1840, prior to the adoption of the zoning laws in the Town Scituate. The only pre-existing nonconformity of the subject property is a 10' side yard setback on the northerly property line. In all other respects the lot and the dwelling are conforming.

The applicant proposes to extend the existing northerly side wall of the dwelling 16' into an existing outdoor patio area (plan originally dated January 4, 2007, revised April 8, 2011 by Axiom Architects).

MGL 40A § 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 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."

Based upon the plan and the testimony of the applicant, the Board finds that the proposed extension of the side wall will not be substantially more detrimental to the neighborhood than the existing dwelling.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicants' request for a special permit and the requested finding to extend the existing side wall in accordance with the plan accompanying the application.

ZONING BOARD OF APPEALS


Peter Morin, Chairman


Brian Sullivan


Sara J. Trezise

Filed with the Town Clerk on: July 7, 2011.

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.