



Decision of the Scituate Zoning Board of Appeals ("the Board") on the application of Daniel and Susan Whitney, 11 Mann Lott Road, Scituate, MA ("the Applicants") for a Finding under Massachusetts General Law ("MGL") 40A Section 6 and a Special Permit under Scituate Zoning Bylaw ("SZB") 1020.2 to allow the reconstruction of the single-family dwelling located on a pre-existing, nonconforming lot at 7 Stone Avenue, Scituate, Massachusetts ("subject property").

The application was received, advertised and an initial public hearing was opened on May 15, 2008 with the following members of the Zoning Board of Appeals hearing the application -

Albert G. Bangert, Chairman  
Brian B. Sullivan  
Peter B. Morin

**DESCRIPTION OF THE PROPERTY:** At the time of the application, title to the subject property was in the name of Susan M. Whitney by way of a quitclaim deed dated March 6, 2005 and recorded with the Plymouth County Land Court as Document #582696.

The subject property is located in the A-3 Residential District and lies within the Town of Scituate Flood Plain and Watershed Protection District and within FEMA flood Zone X as shown on FIRM MAP COMMUNITY PANEL 250820001E dated October 16, 2003. It does not lie within the Town of Scituate Water Resource Protection District. There is a single-family dwelling and detached garage existing on the property. The Assessor's field card shows that the dwelling on the property was constructed in 1953.

**DETERMINATION ON ZONING BYLAW CONFORMITY:** The Dimensional Regulations for lots and residential dwellings in the A-3 District are as follows -

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

According to documents examined at the hearing, the existing lot and buildings do not conform to current zoning requirements with respect to -

- Lot frontage on a street or way - 67 feet
- Lot width at the dwelling - 67 feet;
- Setback from street - 22 feet;

- Side yard setback – 1 foot (garage).

The Board determined that the subject dwelling was in existence prior to the establishment of the Scituate Zoning Bylaw lot frontage and width provisions in 1953 and setback requirements in 1956. Therefore, the Board finds that the property enjoys pre-existing, non-conforming status and the protections afforded by MGL 40A Section 6.

**PROPOSED PROJECT:** The Board reviewed the following documents provided by the Applicants -

1. Site plan drawn by Cavanaro Consulting, 687 Main Street, Norwell, MA dated April 2, 2008 (one sheet).
2. Architectural plans prepared by Touloukian Inc., 153 Milk Street, Boston, MA dated March 20, 2008 (six sheets).

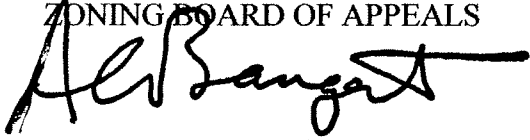
The Applicants propose to raze the existing dwelling and garage and replace them with a new single-family dwelling, which shall conform to all setback and height requirements of the SZB. The location of the new residence on the lot shall be at least 8 feet from the easterly and westerly property lines and thus eliminate the side yard nonconformity. Further, the building shall be at least 30 feet from Stone Avenue, thus reducing the street setback nonconformity.

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

Pursuant to Section 1030.2 of the Bylaw, the Board finds that a) the lot is appropriate for a single-family dwelling, b) the reconstructed dwelling should not adversely affect the neighborhood, c) the use will not create any undue nuisance or hazard to vehicles or pedestrians, d) 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, e) the proposed use of dwelling will not have a significant impact on any public or private water supply, and f) 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 relevant 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 SZB Section 1020.2 and Section 820 and a Finding under MGL Chapter 40A Section 6 that the proposal to raze the two buildings located at 7 Stone Avenue, Scituate, Massachusetts and replace them with a new single-family dwelling as presented by the Applicants is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determined that the Applicants may construct said dwelling provided that it is constructed as proposed at the hearing and it is completed within two years following the razing of the existing buildings.

ZONING BOARD OF APPEALS



Albert G. Bangert, Chairman



Brian B. Sullivan



Peter R. Morin

Filed with the Town Clerk on: May 22, 2008

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.