

Town of Scituate

ZONING BOARD OF APPEALS

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2007 SEP 20 A 11: 32
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Decision of the Scituate Zoning Board of Appeals (hereinafter referred to as "the Board") on the application of Robert Proctor, Jr., 4 Campanelli Circle, Canton, Massachusetts (hereinafter referred to as the "the Applicant") for a Finding under Massachusetts General Law (MGL) 40A § 6 and a Special Permit to allow the reconstruction of the single-family dwelling located on a pre-existing, nonconforming lot at 75 Gilson Road, Scituate, Massachusetts (hereinafter referred to as "subject property").

The application was received, advertised and a public hearing was duly held on September 12, 2007 with the following members of the Zoning Board of Appeals hearing the application:

Albert G. Bangert, Chairman
Brian B. Sullivan
Sara J. Trezise

Paul Mirabito of Ross Engineering represented the Applicant at the hearing.

At the time of the application, title to the subject property was in the name of Robert Proctor, Trustee - Gilson Road Trust, P.O. Box 682, Randolph, MA 02368 by way of a deed dated January 12, 2005 and recorded with the Plymouth County Registry of Deeds in Book 29834, Pages 114 – 117.

The subject property is located in the A-3 Residential District. The property does not lie in the Town of Scituate Flood Plain and Watershed Protection District, nor does the property lie in the Town of Scituate Water Resource Protection Zoning District.

The 16,500 square foot lot consists two parcels (#15 and #16) established in January 1900 as part of the "Scituate Beach Land Association" (Plymouth County Deeds in Plan Book 1, Page 215.) The parcels were originally 50-foot in width; at some point in the early 1900's, a 12-foot wide strip of parcel #15 was conveyed to an abutter (Plan Book 2541, Page 383.) The Assessor's field card shows that the single-family dwelling on the property was constructed in 1969.

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 lot is nonconforming with respect to -

- Lot frontage – 88 feet;
- Lot width at the dwelling – 88 feet

The Board reviewed the Applicant's plan drawn by Ross Engineering Company, 683 Main Street, Norwell, MA, dated August 10, 2007 of the single-family dwelling the Applicant proposes to construct. The Applicant proposes to raze the existing dwelling and reconstruct a new single-family dwelling. The Board determined that the proposed dwelling will meet all setback and height requirements of the A-3 District.

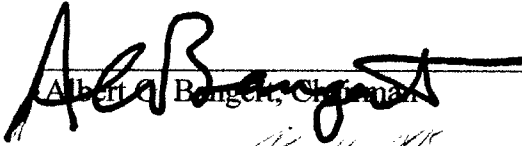
The Board reviewed the deed and made the determination that the subject lot was in existence prior to the 1953 establishment of the dimensional requirements for lots in the Scituate Zoning Bylaw. Based upon the evidence presented, the Board finds that the lot located at 75 Gilson Road pre-existed the adoption of subdivision control in Scituate and is nonconforming to the bylaw. The Applicants' proposal is a reconstruction pursuant to the provisions of MGL c. 40A § 6 and, therefore, enjoys pre-existing, non-conforming status and the protections afforded by MGL 40A § 6.


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 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 1020.2 and Section 820 and a Finding under MGL Chapter 40A Section 6 that the proposal to raze the dwelling located at 75 Gilson Road, Scituate, Massachusetts and replace it 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 determines 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 dwellings.

ZONING BOARD OF APPEALS


Albert C. Banger, Chairman


Brian B. Sullivan


Sarah J. Trezise

Filed with the Town Clerk on 9-20-07

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.