

Town of Scituate

ZONING BOARD OF APPEALS

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SCITUATE, MASS.

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



Decision of the Scituate Zoning Board of Appeals on the application of John F. McNamara, III of 54 Garrison Drive, Scituate, Massachusetts for a finding under MGL 40A § 6 and a special permit to allow alteration, reconstruction and addition to his residence located at 75 Moorland Road, Scituate, Massachusetts. Said alteration, reconstruction and addition will result in an increase in gross floor area of more than 20%.

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:

Peter Morin
Brian B. Sullivan
Sara J. Trezise
John Hallin
Edward C. Tibbetts

The property that is the subject matter of this application is located in the A-2 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.

At the time of the application, title to the premises was in the name of the Applicant and Catherine M. McNamara, as husband and wife, by way of a deed recorded with the Plymouth County Registry of Deeds in Book 39347 Page 89.

The premises contain 24,335 square feet of land and contain 382.40 feet of frontage along the curve at the intersection of Collier Road and Moorland Road, public ways. The A-2 Residential District requires 20,000 square feet lot area and 100 feet of frontage and 125 feet of lot width. In addition, the A-2 Residential District requires a 30 feet front setback, 15 feet side yard setbacks, 8 feet rear yard setback for one story detached accessory structures and 30 feet rear yard set back for all other buildings. The Applicant produced evidence at the hearing showing the lot and single-family dwelling located upon thereon have been in existence since at least 1949. The dwelling is set back from Moorland Road 22.3 feet. The current single-family dwelling is therefore nonconforming as to its front setbacks. The single-family dwelling is therefore pre-existing and nonconforming.

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At the February 16, 2011 hearing, the Board reviewed with Mr. McNamara and his agent, Paul J. Mirabito, CE, PLS the submitted plan drawn by Ross Engineering Co., Inc. Norwell, Massachusetts dated January 12, 2010. In addition, the applicant reviewed with the Board a rendering of the alteration, reconstruction and addition to the dwelling the Applicant proposes to construct. The plans call for renovations, which will decrease the pre-existing non-conforming setback along Mooreland Road from 22.3 feet to approximately 23.9 feet. All other setbacks will conform. The proposed structure will have a total gross floor area of 3,847 sq ft; an increase of 1,382 sq ft (56%) from the existing structure (2,465 sq ft).

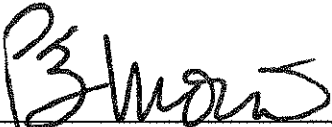
Based upon the evidence presented, the Board finds that the lot and single family dwelling located at 75 Moorland Road pre-exist the adoption of subdivision control in Scituate and the dwelling is nonconforming to the bylaw. The Applicant's proposed addition to his single family dwelling is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6 and is required under Scituate Zoning Bylaw 810.2.

The Board finds that the proposed alteration, reconstruction and addition decreases the nonconforming nature of the existing single-family dwelling. The Board finds that the continued nonconforming nature of the dwelling is not substantially more detrimental to the neighborhood than the existing nonconformity.

Pursuant to Section 950.3 of the Bylaw, the lot is appropriate for a single-family dwelling. The use of the dwelling 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.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicants' request for a finding under MGL Chapter 40A § 6 and for a Special Permit to allow the addition to the single family dwelling as shown on the Application Plan.

ZONING BOARD OF APPEALS



Peter Morin



Brian B. Sullivan



Sara J. Trezise

Filed with the Town Clerk on: February 28, 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.