

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 (the "Board") on the application of John M. Foley and Catherine E. Foley of Post Office Box 267, Scituate, Massachusetts 02066 (the "Applicant") for a finding under Massachusetts General Laws ("MGL") Chapter 40A, Section 6 and a Special Permit under Scituate Zoning Bylaw ("SZB") 1020.2 to all the reconstruction of a single family dwelling located on a pre-existing, non conforming lot at 99 Glades Road, Scituate, Massachusetts ("subject property").

The owner of the subject property is Stephen C. Brown currently of 99 Glades Road, Scituate, Massachusetts. The subject property is under a purchase and sale agreement to the Applicants. The Applicants have the authority to file the application on behalf of the current owner and a copy of a letter signed by Michael C. Hayes, counsel to Stephen Brown, current owner, confirms that authorization. The letter was filed with other materials in this case.

The application was received and advertised and an initial public hearing was opened on September 15, 2010 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman
Brian B. Sullivan
Sara J. Trezise

DESCRIPTION OF THE PROPERTY: At the time of the application, title to the subject property was in the name of Stephen C. Brown who acquired title by deed dated September 23, 1991 and recorded with the Plymouth County Registry of Deeds in Book 10543, Page 120. As indicated, the Applicant presented a letter signed by Michael C. Hayes, counsel to Stephen Brown, giving them permission to apply for the Special Permit that is the subject of this decision.

The subject property is located in the A-3 Residential District and lies within the Town of Scituate Flood Plain and Watershed 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 1900.

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;
Lot frontage on a street or way – not less than 100 feet;
Lot width at the dwelling – not less than 125 feet;
Setback from any street or way – not less than 30 feet;

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Side yard setback – not less than 8 feet;

Rear yard depth – not less than 20 feet.

The existing lot and building do not conform to current zoning requirements with respect to:

Lot area- 9,080 square feet;

Lot width at the building line – 97.4 feet;

Setback from street – 12.8 feet;

Side yard setback – 3.8 feet (garage), 27 feet (dwelling)

The Board determined that the subject dwelling was in existence prior to the establishment of the Scituate Zoning Bylaw lot size, frontage and width provisions in 1953, and building height and setback requirements in 1956 and that the adoption of the Flood Plain and Watershed Protection District. Therefore, the Board finds that the property enjoys a pre-existing, nonconforming status and the protections afforded by MGL Chapter 40A, Section 6.

PROPOSED PROJECT: The Board reviewed the following documents provided by the Applicant:

1. Site plan prepared by Cavanaro Consulting, 687 Main Street, Norwell, MA dated 08/23/2010 entitled "Site Plan SBA Special Permit 99 Glades Road, Scituate, Massachusetts".
2. Architectural plans prepared by Erickson Design Norwell, Massachusetts (consisting of 5 pages).

The Applicant proposes to raze the existing dwelling and garage and replace them with a new single family dwelling, which shall not exceed 35 feet in height at the ridgeline. The location of the new residence on the lot shall be close to the side lot lines but is situated in a way to create less impact on the neighborhood and the wetlands than the prior structure. Further, the building shall be setback further from Glades Road than the existing street setback therefore reducing slightly the nonconformity.

No one in the attendance at the Public Hearing spoke in opposition to the proposal. Four parties spoke in favor of it.

Pursuant to Section 1030.2 of the Bylaw, the Board finds that:

- (a) The lot is appropriate for a single family dwelling. It is currently improved with a residence and following the razing and reconstruction will also be improved with a single family dwelling.
- (b) The reconstruction of the dwelling should not adversely affect the neighborhood as the dwelling will be further from the wetlands; on

pilings to comply with flood control regulations; the garage will have break away panels; a new septic system will be installed to comply with Title 5 of the State Environmental Code and less of the structure will be on the surface of the ground and architecturally, the design is an improvement over the existing structure.


- (c) The use will not create any undue nuisance or hazard to vehicles or pedestrians
- (d) Title 5, the Building Code, the Wetland Protection Act and Regulations promulgated there under and those who enforce these regulations will ensure that all appropriate facilities are provided to assure the proper operation of the single family dwelling on the subject property.
- (e) The proposed use of the dwelling will not have any significant impact on any public or private water supply as the use is unchanged from prior use.

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 votes to GRANT the Applicant a Special Permit under SZB Section 1020.2 and Section 820 and Finding under MGL Chapter 40A, Section 6 that the proposal to raze the two buildings at 99 Glades Road, Scituate, Massachusetts and replace them with a new single family dwelling with attached garage as presented by the Applicant is not substantially more detrimental or injurious to persons, property or improvements in the vicinity. Accordingly, the Board determined that the Applicant may construct the dwelling provided that is constructed as proposed at the hearing and it is completed within two years following the razing of the existing building.

ZONING BOARD OF APPEALS


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Brian B. Sullivan



Sara J. Trezise

Filed with the Town Clerk on: September 28, 2010.

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 MGL 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 Town Clerk