



Decision of the Scituate Zoning Board of Appeals on the application of John K. Tedeschi of 17 Northey Farm Road, Scituate, MA (hereinafter, the "Applicant") for a Special Permit pursuant to Scituate Zoning Bylaw (the "Bylaw") Section 470.9 to construct a single family home on property in the Town of Scituate Flood Plain and Watershed Protection District.

The application was received, advertised and a public hearing was duly held on October 19, 2012, with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman  
John Hallin  
Edward C. Tibbetts

The subject property (the "Subject Property") at Lot 295, 0 Foam Road, Map 46, Block 13, Parcel 16-0-R is owned by John T. Stonefield and Jane C. Stonefield of 137 Warren Road, Townsend, MA (See Certificate of Title No. 77407 filed with the Plymouth County Registry of Deeds, Book 387, Page 7). It is located in Residence A-3 Zoning District, and is not located within the Water Resources Protection District. The Subject Property is 5,908.1  $\pm$  SF has 54.59  $\pm$  feet of frontage on Foam Road and an average lot width of 59  $\pm$  feet. The Applicant has provided a copy of the Owner's Duplicate Certificate and associated Plan which indicates that the Subject Property is an isolated lot in existence prior to 1951 and the adoption of zoning in the Town of Scituate. The Applicant further represented that the property has been in the ownership of the same family since the 1930's. The pre-existing nonconformities of the Subject Property are (a) lot frontage of 54.59  $\pm$  feet is less than the required 100', (b) lot width is 54.59  $\pm$  feet, less than the required 100', (c) lot area is 5,908.1  $\pm$  square feet, less than the required 10,000 square feet.

The Subject Property is located in a Special Flood Hazard Area (Flood Zone AE) as shown on National Flood Insurance Rate Map 2502820004C, dated October 16, 2003.

The Applicant was represented by Richard A. Henderson, Esq., Henderson & Henderson, P.C., 76 South Main Street, Cohasset, MA and Jeffrey M. Hassett, P.E., Morse Engineering Co., Inc., P.O. Box 92, Scituate, MA.

The Applicant requests a Special Permit under Scituate Zoning Bylaw Section 470.9, requiring a Determination of Suitability, to construct a single family home on property in the Town of Scituate Flood Plain and Watershed Protection District.

The Board considered testimony of the owner, attorney, engineer, and neighbors as to whether the Subject Property is "in fact not subject to flooding and not unsuitable

because of drainage conditions for any use otherwise permitted under applicable provisions of the zoning bylaw, but not specifically listed under Section 420". The Board considered testimony and evidence of standing water on the Subject Property. The Board determined the standing water to be a result of extraordinary and extreme weather conditions where surrounding properties and neighborhoods, generally not considered subject to flooding, also experience standing water. This testimony notwithstanding, the Board determined that Subject Property is not subject to flooding and not unsuitable because of drainage for construction of a single family residence built in accordance with current Federal and State building regulations.

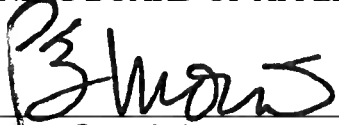
The Board is also satisfied that the criteria set forth in the Section 950.3 of the Zoning Bylaw have been met, and specifically that (A) the Subject Property is an appropriate location for the proposed structure or use, (B) the proposed use as developed will not adversely affect the neighborhood, (C) there will not be an undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure, (D) adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use or structure, and (E) there will not be any significant impact on the public or private water supply.

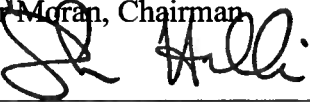
For the foregoing reasons, the Board unanimously voted to GRANT the Applicant a special permit to construct a single family dwelling in accordance with the submitted plans prepared by Moran Surveying Incorporated, 14 William Avenue, Pembroke, MA 02359 entitled "Preliminary Concept Plan, One Family Dwelling", dated July 14, 2012, PROVIDED that the Applicant revises the plans such that

1. Parking area under the structure shall be constructed to ensure surface water recharge on site, to the maximum degree possible, using permeable or semi permeable materials.

This Special Permit and these findings are issued pursuant to Scituate Zoning Bylaw Sections 470.9 and 950.3.

#### ZONING BOARD OF APPEALS

  
\_\_\_\_\_  
Peter Moran, Chairman

  
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John Hallin

  
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Edward C. Tibbetts

Filed with Town Clerk on: December 11, 2012.

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.