

Scituate Zoning Board of Appeals
Meeting Minutes
October 20, 2016

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PRESENT: Ed Tibbetts, Acting Chairperson, John Hallin, Frank Lynch and Anthony Bucchere.

Also Present: Robert Vogel, Acting Building Commissioner and Zoning Enforcement Officer.

The Scituate Zoning Board of Appeals held a public hearing on October 20, 2016 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:15 P.M.

First Application: Michael McCarron of 133 Glades Road, Scituate, MA request a Special Permit/ Finding pursuant to M.G.L Chapter 40A, Section 6 to enclose a first level porch and add a second story open deck over that enclosure on the front of the existing dwelling on a preexisting, nonconforming lot at **133 Glades Road, Scituate, MA (Assessor's Map 5, Block 3, Parcel 53)**.

The Applicant requested to withdraw the application without prejudice in a letter dated October 17, 2016 received via email.

Mr. Lynch motioned to grant the Applicant's request to withdraw the application without prejudice. Motion seconded by Mr. Hallin, all in favor, unanimous.

Second Application: (Continued from September 15, 2016) Alfred Boyajian of 94 Marion Road, Scituate, MA requests a Special Permit/ Finding pursuant to M.G.L. Chapter 40A, Section 6 and/or Section 810.2A of the Scituate Zoning Bylaw to construct an addition which will increase the gross floor area of the dwelling by 102% on a pre-existing nonconforming lot at **94 Marion Road, Scituate, MA (Assessors Map 40, Block 11, Parcel 3)**.
Representing the Applicant: Paul Mirabito, Registered Engineer, Ross Engineering.

Mr. Hallin reminded the audience the hearing has been closed to further public comment per ZBA vote at the meeting September 15, 2016.

Mr. Mirabito explained the Applicant is requesting a Finding under Section 810.2, thus requiring a simple majority vote. The Applicant would not be agreeable to language conditioning the Special Permit/ Finding adhering to the architectural plans submitted, referencing an application before the Board in September.

Mr. Lynch explained the distinction under Section 950.2 between the ZBA's authority to grant Special Permits and the Permit granting authority.

Mr. Bucchere stated his interpretation of the section differs from that of Mr. Lynch and believes a Finding would be most appropriate for this application.

After further review of Section 950.2 Mr. Lynch concurred with Mr. Bucchere.

Mr. Hallin referred to correspondence submitted by DPW stating there is no evidence the drainage was ever part of the Town system.

Mr. Lynch referred to Section 950.4 noting the ZBA may impose some conditions of approval.

The Board discussed the possibility of conditions as to square footage, grading and height. The height of the proposed structure was confirmed at 33.5 3/4" by Mr. Mirabito. Additionally, Mr. Mirabito confirmed that grades represented on the submitted plan were confirmed to be present grades with the exception of the filling of the driveway area as noted on the plan dated July 29, 2016.

Mr. Bucchere read the motion as stated at the September 15, 2016 meeting and Mr. Lynch requested modification of the motion to read as follows:

Mr. Bucchere moved regarding the application for 94 Marion Road that the Board find the proposed improvements per a plan submitted by Ross Engineering and dated 7-29-2016 do not create new nonconformities and do not extend existing nonconformities, further that the Board condition it's finding on proposed improvements on the site being built in a manner not to exceed the proposed side, front and rear setbacks, height and existing grade as noted in the written application and plan and to the extent that there is any intensification of lot area, the Board finds it is not substantially more detrimental to the neighborhood than the existing structure; further that the Board find the lot is nonconforming with respect to lot area, right side setback and lot frontage and that the proposed plan does not create any new nonconformities and does not create the extension of any existing nonconformities and further condition its finding that the height shall not exceed 33 5/4' to the roof peak from the average grade at the foundation as shown on the plan. Motion seconded by Mr. Tibbetts. All in favor, unanimous.

Jim Hunt of 66 Mann Lot Road asked how this was determined to be a Special Permit.

The Board explained the was not asking for a Special Permit. The concerns were based on conditioning the permit, and that conditions were, in fact, a part of the Finding.

Steve Bjorkland of 38 Ladds Way offered a definition of a Finding and Special Permit.

The Board further discussed the differences between said permits, a Finding and a Special Permit.

Mr. Lynch moved to adjourn. Seconded by Mr. Lynch, all in favor, unanimous.

Meeting adjourned at 8:50pm.

Respectfully Submitted,

Anne M. Kelly