

**Scituate Zoning Board of Appeals
Meeting Minutes
November 17, 2016**

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PRESENT: Sara Trezise, Chairperson, Ed Tibbetts, 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 November 17, 2016 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:05 P.M.

Mr. Tibbetts moved to elect a Chairperson, Clerk and Web editor for the ZBA. Ms. Trezise requested the Board act following the Applicant's hearings. Mr. Tibbetts asked for a second to his motion. **Ms. Trezise added to the motion to vote at the conclusion of the applications.** **Motion seconded by Mr. Bucchere, all in favor, unanimous.**

First Application: Mr. John Collins, Jr. and Susan Collins of 391 Old Country Road, N. Palm Beach, FL 33414 request an appeal of the Assistant Building Commissioner's September 14, 2016 refusal to declare **74R Brook Street, Scituate, MA (Assessor's Map 50, Block 13, Parcel 11R)** a buildable lot.

The Applicant requested to continue the hearing to the January 19, 2017 meeting in a letter dated November 16, 2016 received via email.

Mr. Tibbetts motioned to grant the Applicant's request to continue the hearing to the January 19, 2017 meeting. Motion seconded by Mr. Hallin, all in favor, unanimous.

Second Application: Mark and Jaime Novak of 7 Nelson Road, Scituate, MA request a Special Permit/ Finding pursuant to M.G.L. Chapter 40A, Section 6 to construct an addition adding more than 20% to their non-conforming single family dwelling located at **7 Nelson Road, Scituate, MA (Assessor's Map 28, Block 21, Parcel 10).**

Document presented: Plan dated 9/30/2016 prepared by Morse Engineering.

The Applicant, Mark Novak, explained the application to the Board and stated the proposed addition to their 1428 sq. ft. home will increase the square footage by 62.8% for a proposed total gross floor area of 2,325%. The property is located in the R3 zone and is nonconforming with respect to the western side lot setback (6.8' where 8' are required), lot frontage and lot width. Mr. Tibbetts reviewed the site plan presented noting the extension of the conforming side setback as well as no intensification of the existing nonconformities or the creation of any new nonconformities.

According to the Assessors card the year built is shown as 1972. The Board discussed the nonconformities and how they relate to the application of the zoning bylaws in this instance.

Mr. Bucchere stated the lot width and frontage are the nonconformities. The lot existed prior to zoning.

Mr. Lynch explained that on a previous application Mr. Duggan had pointed out that the Bylaw had once allowed 5,000 square lots with 50 feet of frontage and that the Bylaw was changed in 1992, setting forth the current frontage requirement of 100 feet. Consequently, this pre-existing lot became non-conforming when the Bylaw changed in 1992.

Ms. Trezise further explained that a Finding is the appropriate approach for the Board as the application meets all criteria for such issuance.

The meeting was opened for public comment.

Jeff DeLisi of 318 Country Way stated that the Legislature recently amended Chapter 40A, Section 7. This Massachusetts statute now states that where a non-conforming structure exists for ten years without appeal it shall be considered legally non-conforming.

There were no further comments from the public.

Mr. Bucchere motioned that the Board find the property at 7 Nelson Road is legally nonconforming as to lot frontage and lot width and that the Board find that the proposed improvements per the plan dated 9/16/16 as prepared by Morse Engineering show improvements which increase the square footage by more than 20%, that shall not create any new nonconformities and to the extent they intensify the existing nonconformities, such intensifications are not substantially more detrimental to the surrounding neighborhood and further, out of an abundance of caution, that the Board grant a Special Permit. Motion seconded by Mr. Lynch, all in favor, unanimous.

Third Application: Leslie and Jeffrey G. Hubbard, Trustees of JAC Realty Trust of 28 River Road, Scituate, MA request a Finding/ Special Permit in accordance with Scituate Zoning Bylaw Sections 470.6F, 810.2, 950.2B, 950.2D, and/or M.G.L. Ch. 40A, Section 6, and/or any other relief the Board of Appeals may grant that the razing of a pre-existing nonconforming single family dwelling at **28 River Road, Scituate, MA (Assessor's Map 69, Block 2, Parcels 18, 19 and 20)** and reconstruction of a single family dwelling thereon, will be less nonconforming, and will not be substantially more detrimental or injurious to the neighborhood, than the existing nonconforming structure.

Representing the Applicant: Attorney Jeff DeLisi of Ohrenberger, DeLisi, Harris and Associates and Jeffrey Hassett, Registered Engineer, Morse Engineering.

Mr. DeLisi describes the application and explains to the Board that property is located in the R3 residential zone on lot with an area of 19,000 sq. ft. with frontage approximately one and one half times the required 100 feet. The structure was built in 1950 and is in the Scituate Floodplain and Watershed Protection district. Currently the structure is not in compliance with the FEMA flood zone of AE15. The nonconforming front setback is 20' where 30' are required.

The Board discussed section 810.2 of the Scituate Zoning Bylaws and the intention of said bylaw. Mr. Bucchere explained sections A and B are permissive for the Building Commissioner to issue a Building Permit while section C requires a Special Permit/Finding from ZBA when there is a proposed increase in gross floor area of more than 20%.

Mr. Hallin inquired about the existing and proposed elevation of the structure.

Mr. DeLisi stated the existing elevation is 11.47' and the proposed elevation is 16.3'.

Ms. Trezise explained the Applicant must additionally meet all criteria as stated in 470.6 for a Flood Plain Special Permit. The proposed structure will be constructed and elevated in accordance with the 2016 FEMA flood maps thereby meeting all criteria for a Flood Plain Special Permit.

There were no public comments.

Mr. Lynch made a motion that the Board grant a Finding/Special Permit at 28 River Road, Scituate and moved the Board find the existing lot conforming, that the structure is nonconforming with respect to the front setback and that the proposed plan would not increase or intensify the existing nonconformity, and further that the proposed raze and reconstruction as set forth in the plan prepared by Morse Engineering dated 10-19-2016 will not increase or intensify the existing nonconformity, further that the Board find the plan as set forth is in compliance with bylaw section 950.3 and section 470.6 and therefore a Special Permit be granted. Motion seconded by Mr. Hallin, all in favor, unanimous.

Ms. Trezise addressed Mr. DeLisi and acknowledged the Board did not vote on the Flood Plain Special Permit for 169 Jericho Road at the prior ZBA meeting on October 20, 2016. The applicant was seeking relief from the Board for a Flood Plain Special Permit in addition to the Finding granted for the razing and reconstruction of the structure on the property. The Board determined appropriate notice be posted for the public hearing and the Board would reconvene on November 29, 2016 to vote on the Flood Plain Special Permit with no further submission of documents or public comment allowed. Mr. DeLisi assented to the meeting on behalf of the Applicant.

Ms. Trezise motioned to appoint Mr. Lynch as Chairman of the ZBA.

Mr. Lynch expressed his appreciation to Ms. Trezise, but felt it best that a voting member serve as Chair.

Mr. Bucchere agreed with Mr. Lynch.

Mr. Tibbetts consulted with members of other boards for input on the option of an alternate board member serving as chairperson and was led to believe it would not be appropriate appointment for an alternate member.

Mr. Tibbetts moved to appoint Mr. Hallin as ZBA Chairman. Motion seconded by Mr. Lynch., all in favor Mr. Bucchere, Mr. Tibbetts and Mr. Lynch. Ms. Trezise voted nay. By majority vote, Mr. Hallin was appointed Chairman.

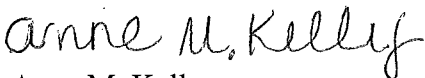
Minutes presented for vote.

Mr. Tibbetts moved to approve minutes from the September and October 2016 meetings. Motion seconded by Mr. Bucchere, all in favor, unanimous. Ms. Trezise abstained from the vote.

Mr. Lynch moved to adjourn. Motion seconded by Mr. Tibbetts, all in favor, unanimous.

Meeting adjourned at 8:05pm.

Respectfully Submitted,



Anne M. Kelly