

**Scituate Zoning Board of Appeals**  
**Meeting Minutes**  
**July 21, 2016**

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**PRESENT:** Sara Trezise, Chairperson, John Hallin, Frank Lynch, Ed Tibbetts and Anthony Bucchere.

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

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The Scituate Zoning Board of Appeals held a public hearing on July 21, 2016 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:00 P.M.

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**First Application: Stockbridge Properties, LLC of 41 Cavanaugh Road, Scituate, MA** requests a finding under 810.3 of the Scituate Zoning Bylaw and/or a Finding/ Special Permit under M.G.L. Chapter 40A, Section 6 to allow an office addition on an existing pre-existing, nonconforming building and use at **108 Stockbridge Road, Scituate, MA (Assessor's Map 54, Block 2, Parcel 25 & 26).**

Representing the Applicant: Richard Henderson, Esq., Greg Morse, Civil Engineer, Morse Engineering.

Also Present: Andrew Spath, owner.

Attorney Henderson explained to the Board the proposed addition is not substantially more detrimental to the surrounding neighborhood, and the proposed use is less offensive or no change in use as specified in the ZBA decision of 1991. After reviewing the eight nonconforming uses stated in the said ZBA decision, Attorney Henderson noted only the entity changes, not the use.

Mr. Morse describes the plan to the Board and denoted the buildings on the 9 acre property, which include the existing commercial garage. The property is located in the R2 residential zone. The proposed plan for a 16 x 30' addition to the garage would not be visible from the street as the proposed height is less than the existing garage, located 15.7' from the lot line.

Ms. Trezise asked the nature of Mr. Spath's business.

Mr. Spath stated he is the owner of Site Pro, an excavating and contracting business.

The meeting was opened for public comment.

Chris Carchia of 119 Stockbridge Road expressed concern over a use not listed in the prior Special Permit, specifically referring to the mulch production and traffic and smell associated thereto.

Pam Patterson of 0 Lynda Lane asked who would enforce any conditions attached to the Special Permit.

Ms. Trezise explained the best option to communicate any questions or concerns regarding a violation of Special Permit and a request for enforcement would be contacting the Building Commissioner.

Mr. Hallin asked if the mulch business was to continue operating.

Mr. Spath stated there is one owner who grinds mulch 2-3 time per year. Production is expected to continue. Mr. Spath has worked tirelessly to clean up the property including landscaping and the installation of a fence.

**Mr. Tibbetts moved to grant the Applicant's application for additional building space to include an office attached to an existing commercial garage as shown on the plan by Morse Engineering dated 3/30/16, revised 3/31/16 and to find the change is not a substantial detriment to the neighborhood. Motion seconded by Mr. Lynch, all in favor, unanimous.**

**Second Application: (Continued from June 16, 2016) JMGH Family Realty Trust, P.O. Box 948, Hanover, MA 02339** requests a Special Permit/ Finding under M.G.L. Chapter 40A, Section 6 and/ or Section 810.3 to allow the razing and reconstruction of a pre-existing, nonconforming multi family dwelling at **93-97 First Parish Road, Scituate, MA (Assessor's Map 49, Block 3, Parcel 1).**

Representing the Applicant: Greg Morse, Registered Engineer, Morse Engineering and John Barry, owner.

Mr. Morse updated the Board on the status of the application which had been continued following meeting with the Design Review Committee. The most recent meeting ended with a favorable result for all parties involved in the process. Architectural plans have been changed as a result of input from the DRC and reflect a lower profile and the addition of dormers. The proposed plan shows Units 1-3 located in the front of the building, and the remaining 2 units located in a carriage house style building and connected by an arbor. Parking to include 10 spaces and mechanicals would be located on the east side of the building. Vegetation would be maintained and additional landscaping would provide further buffering.

Ms. Trezise asked the present and proposed width of the building.

Mr. Morse stated the present width is 65', proposed is 55'. Present square footage is 4098 and proposed is 5784, representing an increase of 40%.

Mr. Hallin asked if garages were eliminated from the plan.

Mr. Barry explained that in addressing all concerns brought forth by abutters, garages no longer fit with the design. Each of the five two (2) bedroom units would be 1100 square feet.

The Board thanked Mr. Barry for his patience and willingness to follow through with the design review process and complimented Mr. Barry on the attractive design, curb appeal and accommodation of abutters concerns.

The meeting was opened for public comment.

Zarla Ludin and Ben Borenstein of 99 First Parish Road thanked the Applicant for his cooperative efforts and expressed interest in conditions attached to a Special Permit should the Board vote to grant it. Specifically noting lighting to be located on the western side of the building, placement of mechanicals on the eastern side, no dumpster on the property and landscaping to maintain the 5' boundary. Additionally requested was a condition to restrict the number of units.

Ms. Trezise explained the current structure is an allowed use as a 5 unit multifamily building. The proposed plan includes 5 units. Use has been allowed and will continue.

Jennifer Kuhn of 20 Carrie Litchfield opposes the size of the proposed structure and requested the Board deny the application as it would not "fit in" with the neighborhood.

Peter Giovanni of 9 Stockbridge Road expressed crowding concerns over 10 parking spaces and 5 units on the existing lot. Mr. Giovanni also inquired about basements for units.

Mr. Barry stated there would be crawl spaces, not basements.

The Board discussed how to best protect the Applicant and abutters in the statement of conditions as part of the Special Permit.

**Mr. Bucchere moved to grant the Special Permit request of JMGH Family Realty Trust to allow the razing and reconstructing of a multi-family dwelling for the property at 93-97 First Parish Road in Scituate five (5) unit, ten (10) bedroom multifamily dwelling with ten (10) parking spaces on site as shown on the plan by Morse Engineering dated 2/19/16, revised 7/19/16 and that the Board find any intensification resulting from the nonconforming front setback is not substantially more detrimental to the neighborhood than the existing non-conforming structure and that the Board grant the Special Permit with the following conditions:**

- 1. Lighting must be down lighting.**
- 2. A five (5) foot landscape buffer and/ or fence along the rear and western side**
- 3. No dumpsters are located on the property.**
- 4. All mechanicals are located on the eastern side.**

**Motion seconded by Mr. Hallin, all in favor, unanimous. (Mr. Tibbetts abstained from voting as a result of not hearing the application initially)**

**Fourth Application: Ashley and Michael Warner of 20 Dayton Road, Scituate, MA request a M.G.L. Chapter 40A, Section 6 Special Permit/Finding to construct an addition to their pre-existing, nonconforming single family dwelling which will increase the existing gross habitable floor area by more than 20% at 20 Dayton Road, Scituate, MA (Assessor's Map 28, Block 19, Parcel 6).**

Ms. Warner explained the application to the Board stating the property is located in the R3 residential zone and is nonconforming with respect to lot size and front setback. The architectural plan was presented with Ms. Warner's explanation of the proposed two story

addition. The existing square footage of the dwelling is 1688 with a proposed increase of 924 square feet. The proposed addition represents an increase of 54.7% in the gross floor area. The nonconforming front yard setback would remain at 11.9' in a zone where 30' are required.

Ms. Trezise explained to the Applicant the dwelling was constructed in 1910 and later reconstructed in 1989 following a fire thereby predating zoning. Records verifying the year built were located in the archives. Ms. Trezise further explained a certified plot plan must be submitted to show no less of dimensions than what is notated on the site plan submitted by the architect and the Special Permit, should it be granted, would state such as a condition attached.

The meeting was opened for public comment.

Mike Thompson of 16 Dayton Road supports the project but expressed concerned about water run-off as a result of the proposed construction. Mr. Thompson also understood storm water runoff would be reviewed prior to issuance of a Building Permit.

**Mr. Bucchere made a motion that the Board grant the application of Ashley and Michael Warner of 20 Dayton Road for the property at 20 Dayton Road to allow the construction of a proposed two story addition, and to find any intensification of the existing frontage and front yard setback nonconformities are not substantially more detrimental to the neighborhood and to condition the granting of said permit on the Board's receipt prior to its next meeting on August 18, 2016 of a engineered certified plot plan showing all setbacks consistent or in no way exceeding or violating in nonconforming nature. Motion seconded by Mr. Lynch, all in favor, unanimous.**

**Fifth Application: Whitecrest Realty LLC/ Charles Fagan of P.O. Box 43, Greenbush, MA requests a Special Permit under Section 420(3) and Section 200 (Definitions) of the Scituate Zoning Bylaws to construct a microbrewery at 6 Old Country Way, Scituate, MA (Assessors Map 53, Block 4, Parcel 8).**

**Representing the Applicant:** Frank Colpoys, Esq., Greg Morse, Registered Engineer, Morse Engineering. Also present: Mr. Matt Elder representing Untold Brewing, LLC, tenant of property and Mr. Alan MacLeod, Architect.

Ms. Trezise and Mr. Hallin recused themselves from the hearing as both are abutters.

Attorney Colpoys clarified the Applicant is seeking a Special Permit for the use of the building. The property, located in the Greenbush General Business overlay district, is dimensionally compliant. At the Town meeting in November of 2015 a petition to allow a microbrewery in the Greenbush General Business zone was unanimously voted. The building currently on site will be relocated to the abutting property and the old school house, originally part of Fitz Mill, will be relocated and be part of the site.

Mr. Morse explained the Applicant would be working with the Planning Board and Design Review Committee. The old school house is proposed to serve as a vestibule for patron tasting. Food will not be served. The vestibule would be connected to the 100' long and 42' wide building in the rear. Parking is proposed to be located in the rear of the lot. The property is served by public utilities, including sewer. The Applicant has met with the sewer department and

reviewed water usage which is estimated to be 131,000 gallons annually for the 15 barrel system. This is the equivalent annual usage of a family of four.

Mr. Tibbetts clarified the use is allowed in the Greenbush general business district. The property is also within the Water Resource Protection District therefore criteria as set forth in Section 520.5F of the Scituate Zoning Bylaws must be met prior to issuance of a Special Permit by the ZBA.

After Attorney Colpoys reviewed criteria as stated in the bylaws the Board was satisfied all points had been met satisfactorily.

The meeting was opened for public comments.

John Hallin of Old Country Way spoke in favor of the project.

**Mr. Tibbetts moved to grant the Special Permit requested for a proposed microbrewery by Whitecrest Realty LLC at 6 Old Country Way on a plan by Morse Engineering dated 6/13/2016, specifically finding that under Section 950.3 the Applicant satisfies A, B, C and D and relying upon the Applicant's presentation to the Planning Board and associated Boards that E and F will be met. Motion seconded by Mr. Lynch, all in favor, unanimous.**

**Sixth Application: Neil J. Greco of 319 Central Avenue, Humarock, MA requests a M.G.L. Chapter 40A, Section 6 Finding/ Special Permit to add a second floor to his non-conforming single family dwelling which will increase the existing gross habitable square footage more than 20%. The property is located at 319 Central Avenue, Humarock, MA (Assessor's Map 68, Block 2, Parcel 6).**

The Applicant reminded the Board the application before the Board was the second application for a Special Permit on the property. In 2011 a Special Permit was granted which enabled the Applicant to under pin the back side of the structure. This work was done in anticipation of a second floor addition. The proposed second floor addition would remain within the existing footprint.

Ms. Trezise inquired about the 3' roof overhang shown over the front stoop and informed Mr. Greco the roof overhang would alter the nonconforming front setback, currently 24'. The proposed front setback is 21.6' where 30' are required.

Mr. Bucchere stated the engineered site plan does not show the proposed setbacks and should be revised to reflect the existing and proposed setbacks, including the overhang

Mr. Vogel explained the implications of the 2016 FEMA flood zone designation of AE15 must be carefully considered as the proposed addition would be considered a substantial improvement, thus requiring substantial and specific requirements of FEMA are met.

Mr. Greco further discussed compliance with FEMA requirements with Mr. Vogel and his willingness to conform.

There were no comments from the public.

**Mr. Bucchere motioned to grant the request for a Special Permit request of Neil J. Greco for the property at 319 Central Avenue in Humarock for the proposed second story addition and front covered porch entryway addition and a finding that any intensification of the front yard setback nonconformity is not substantially more detrimental to the surrounding neighborhood with the requirement that a revised plot plan be submitted by the Applicant showing the proposed front porch area and resulting proposed front setback. Motion seconded by Mr. Hallin, all in favor, unanimous.**

**Request for Modification of Comprehensive Permit- Stockbridge Woods: Stockbridge II Realty Trust** requests a modification to the Comprehensive Permit. The primary changes are to allow (1) the transfer of the Comprehensive Permit to the new buyer by allowing the permit to be sold to Scituate Stockbridge Woods, LLC (2) make some non-material changes to the provisions of the agreement to reflect more typical construction conditions and requirements for the Stockbridge Woods project located off Stockbridge Road, Scituate, MA.  
Representing the Applicant: Robert Galvin, Esq.

Attorney Galvin reviewed conditions and the proposed amended conditions which were discussed at length and agreed upon at a meeting with the ZBA Chairperson, the Building Commissioner, Town Planner, Laura Harbottle, Conservation Agent, Patrick Gallivan, the Applicant and Mr. Galvin prior to the hearing. All parties were in agreement with the phasing of the surety bonds. Mr. John Chessia would serve as the construction monitor going forward and be responsible for recommending the bond amount for each of the four phases.

There were no public comments.


**Mr. Lynch made a motion on Stockbridge Woods proposed changes to the Comprehensive Permit with respect to the existing conditions 7, 14, 9, 11, 26, 28 and 45 and moved the Board find that each of the proposed new conditions are insubstantial changes and that the Board approve the proposed new conditions. Motion seconded by Mr. Tibbetts, all in favor, unanimous.**

**Mr. Tibbetts moved to accept the June minutes with submitted revisions. Motion seconded by Mr. Bucchere, all in favor, unanimous.**

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

**Meeting adjourned at 10:30pm.**

Respectfully Submitted,



Anne Kelly