

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
(781) 545-8716



Decision of the Scituate Zoning Board of Appeals on the application of Greg Crone of 747 Country Way, Scituate, MA, for a Special Permit pursuant to Section 610.2.B of the Scituate Zoning Bylaw for the creation of two fifty-foot frontage lots on Country Way, which will allow the continuation of the existing single-family dwelling on LOT A, and for the construction of a new single-family dwelling on LOT B, shown on the application plan by Morse Engineering Co., Inc., Scituate, Massachusetts, dated June 30, 2023, for properties at 0 & 747 Country Way (Assessor Parcel Nos. 12-3-9-0 & 12-3-9-B), respectively.

The application was received, advertised and a public hearing was duly held on August 17, 2023, and continued to September 21, 2023, with the following members of the Zoning Board of Appeals present at each meeting and voting:

George Xixis, Chairman
Christopher Carchia
Gregory Fleming

The property is located in the R-2 Residential District. The R-2 Residential District requires 20,000 square feet lot area, 100 feet of frontage and 125 feet of lot width through a proposed dwelling.

Scituate Zoning Bylaw Section 610.2.B allows the Board of Appeals to issue a special permit to authorize the creation of a lot that only has at least fifty feet of frontage and fifty feet in lot width, provided certain criteria are met. Notably, any such fifty-foot frontage lot must (i) abut at least one street or way for a distance of at least fifty feet, (ii) have a width of at least fifty feet at every point between the frontage street and the nearest part of the dwelling to be erected on said lot, and (iii) have at least two times the required area of upland for the zoning district in which it is located.

The Applicant owns two contiguous properties that, for the purposes of this application, are treated as if merged. He proposes to divide the merged property so as to create two newly configured lots, each of which will have at least fifty feet of frontage on Country Way, a width of at least fifty feet at every point between the frontage street and the nearest part of the dwelling to be erected on each such lot, and at least double of the upland land area required in the zoning district. Therefore, the Board confirmed that both

lots to be created by this proposed special permit meet the minimum requirements of said Section 610.2.B.

Additionally, the Board spent time discussing the requirement set forth in Bylaw Section 610.2.B.2, that being that "When two or more such so-called fifty-foot lots are approved at the same time that will share a lot line, common driveways, approved in accordance with Section 720 of this bylaw, shall be utilized so that there is a maximum of one curb cut per one hundred feet of frontage." In this case, while the proposed lots share a lot line, special circumstances exist such that the Applicant is not proposing to create more than one curb cut per one hundred feet of frontage of the lots. Those special circumstances moot the requirement for common driveway approval because the objective of the Bylaw would be achieved by the proposal. In particular, the dwelling on Lot A already has the benefit of a perpetual deeded access by an existing right-of-way that intersects Country Way more than four hundred feet further north of the subject properties. The right-of-way is recorded with the Plymouth County Registry of Deeds at Book 2155, Page 408, and is shared by the Applicant in common with other properties. The Applicant proposes for Lot A to continue with access from this existing right-of-way, and, therefore, the Applicant is not proposing the creation of more than one curb cut within a continuous 100 ft. of lot frontage. Additionally, Zoning Bylaw Section 610.2.B.4 also authorizes the Board to impose "such conditions, safeguards, and limitations as it may deem reasonably appropriate to protect the neighborhood or otherwise serve the purpose of this bylaw." The Board believes that it can condition approval of the requested special permit so as to ensure that the Applicant only creates one curb cut on 100 ft. of frontage, thus achieving the objective of said Bylaw Section 610.2.B.2.

At the public hearing, the Board reviewed the application and the proposed plan with the applicant's attorney, Jeffrey A. De Lisi, and the Applicant's engineer, Gregory Morse. Questions by those in attendance at the public hearing were answered.

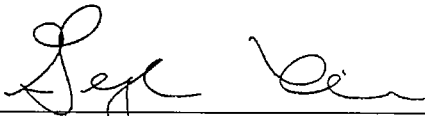
Based upon the evidence presented, the Board finds that said LOT A and LOT B each (i) abut County Way, a street in the Town of Scituate, for a distance of at least fifty (50) feet, (ii) have a width of at least fifty (50) feet at every point between Country Way and the nearest part of the single-family dwelling to be erected thereon, and (iii) has more than two times the 20,000 SF upland lot area otherwise required in the zoning district. The Board further expressly finds that the objectives are Bylaw Section 610.2.B.2 are met because the Applicant is proposing to continue access of LOT A via the existing right-of-way which is more than 400 ft. north of the properties, and, therefore, a common driveway is not proposed and such a permit is not required.

Additionally, the Board is assured that the requirements of Section 950.3 have been met. Pursuant to Section 950.3 of the Bylaw, each LOT A and LOT B are appropriate for a single-family dwelling, and zoned as such. The use of each proposed lot for single-family dwellings will not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the


Building Commissioner will ensure that appropriate facilities are provided to assure the proposed uses.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's requested Special Permit, and authorized the creation of both LOT A and LOT B as shown on the site plan by Morse Engineering dated June 30, 2023, each lot to be used for single-family dwelling purposes thereon pursuant to Scituate Zoning Bylaw Section 610.2.B, upon the following conditions: (i) neither LOT A nor LOT B shall be further divided, (ii) LOT A shall be serviced solely by the existing 50 ft. right-of-way recorded with the Plymouth County Registry of Deeds in Book 2155, Page 408, and (iii) as of the date of occupancy of the dwelling constructed on LOT B, (a) said LOT B be accessed by a driveway constructed solely over LOT B and servicing only LOT B, and (b) that the "existing gravel road" shown on the said plan over Lot A be discontinued at the point along LOT A's frontage such that that curb cut is eliminated.


ZONING BOARD OF APPEALS



George Xixis, Chairman



Christopher Carchia



Gregory Fleming

Filed with the Town Clerk on _____

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 40, Section 17, and shall be filed within twenty (20) days of the date of the filing of the decision with the Town Clerk.