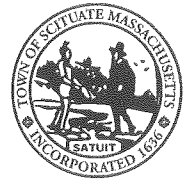


Town of Scituate

ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY
SCITUATE, MASSACHUSETTS 02066
(781) 545-8716



Decision of the Scituate Zoning Board of Appeals on the application of the Roman Catholic Archbishop of Boston c/o St. Mary of the Nativity Parish (hereinafter, the "**Applicant**") for a finding under Scituate Zoning Bylaw Section 820 and G.L. Ch. 40A, Section 6, and any other relief that the Board of Appeals may grant, that the cemetery land uses at St. Mary of the Nativity Parish Cemetery, Meeting House Lane and Stockbridge Road (Assessor Parcel No. 55-3-15-0) (hereinafter, collectively, the "**Property**"), are pre-existing, nonconforming, and that the proposed expansion of the cemetery use is permissible in that the proposed expansion will not be substantially more detrimental to the neighborhood than the pre-existing nonconformities (hereinafter, collectively, the "**Requested Relief**").

The application was received, advertised, and a public hearing was held on July 19, 2018. The following members were present and voted at the public hearing:

John Hallin, Chairman
Edward C. Tibbetts
Anthony J. Bucchere

The Applicant's Cemetery and Maintenance Supervisor, Steve Roberts, was present at the public hearing and was represented by Attorney William H. Ohrenberger, III of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, Massachusetts, and by Brendan P. Sullivan, P.E., P.L.S. of Cavanaro Consulting, 687 Main Street, Norwell, MA.

The Property is owned by the Applicant by deed dated recorded with the Plymouth Country Registry of Deeds at Book 4865, Page 57. Along with the application for public hearing, the said deed, and record plan referenced therein, the Applicant filed the following materials:

1. A copy of an Assessor's Field Card for fiscal year 2018 from the Scituate Assessor;
2. A Google Earth aerial photograph of the Property;
3. Copy of a decision of the Board of Appeals filed with the Scituate Town Clerk on June 18, 2008 (hereinafter, the "**2008 ZBA Decision**"); and
4. Site Plan entitled "SITE PLAN ST. MARY'S CEMETERY MEETING HOUSE LN - SCITUATE" dated June 13, 2018 by Cavanaro Consulting (hereinafter, the "**Site Plan**").

According to the Site Plan, the Property is located in the Residence R-2 zoning district and contains a total of 4.92 acres of land. The Property is utilized exclusively as a cemetery for burial of human remains. In addition to the developed graves on a portion of the Property, there is a small storage/maintenance shed and an access driveway which consists partially of asphalt and partially of gravel. There are no permanent structures on the Property.

According to Section 420.3.C of the Scituate Zoning Bylaws, a cemetery use requires a special permit in the Residence R-2 zoning district. However, the use of the Property as a cemetery is a pre-existing, nonconforming use. In 2008, per the 2008 ZBA Decision, the Board issued a finding authorizing a proposed phased expansion of the cemetery use to include additional burial plots. The findings and relief granted in the 2008 ZBA Decision are specifically incorporated herein by reference.

The Applicant now proposes to continue this phased expansion by utilizing "Block D" shown on the Site Plan, which will include approximately 244 additional burial plots. The Applicant will also relocate the existing storage/maintenance shed elsewhere on the Property, and will improve the access driveway.

Section 820 of the Scituate Zoning Bylaws provides that "[p]re-existing nonconforming uses may be extended or altered provided that there is a finding by the Board of Appeals that the extension or alteration shall not be substantially more detrimental to the neighborhood."

General Laws Chapter 40A, Section 6 provides, in relevant part, that zoning ordinances or bylaws shall not apply to lawful pre-existing nonconforming uses. Said Section 6 further provides that "pre-existing nonconforming [] uses may be extended or altered, provided, that no such extension or alteration be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood."

Based upon the application materials, the information provided to the Board at the public hearing, the Site Plan, the 2008 ZBA Decision, and the foregoing, the Board of Appeals specifically voted to find (i) that the existing cemetery is a pre-existing, nonconforming use, and (ii) that the proposed expanded use of the land as shown on the Site Plan will not be substantially more detrimental to the neighborhood than the existing pre-existing nonconforming use. Therefore, the Board unanimously voted to GRANT the findings and the Requested Relief.

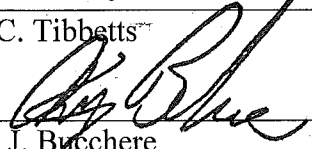
SCITUATE ZONING BOARD OF APPEALS



John Hallin, Chairman



Edward C. Tibbetts



Anthony J. Bucchere

Filed with the Town Clerk and Planning Board: August 2, 2018

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