

# *Town of Scituate*

ZONING BOARD OF APPEALS

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Decision of the Scituate Zoning Board of Appeals on the application of R Farwell & Sons, Inc., 38 Cedarwood Road, Scituate, Massachusetts for a finding under MGL 40A § 6 and a special permit pursuant to Section 810.2 of the Scituate Zoning Bylaw to allow the construction of a two-floor addition to the pre-existing nonconforming single-family dwelling located at 1 Summit Avenue, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on May 26, 2021 with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chair  
Edward C. Tibbetts  
George Xixis

At the time of the application, title to the premises was in the name of Patrick J. O'Brien and Kristen M. O'Brien, Husband and Wife, Tenants by the Entirety by way of a deed dated February 6, 2017 and recorded with the Plymouth County Registry of Deeds in Book 48086 Page 231.

The single-family dwelling that is the subject matter of the Application is located within Scituate's R-2 Residential District. The premises consist of a lot that contains a total of 10,984 square feet lot area. The lot is a corner lot and contains 109 feet of frontage along Mordecai Lincoln Road and 100 of frontage along Summit Avenue, both public ways in the Town of Scituate.

The single-family dwelling and the lot do not lie in the Town of Scituate Flood Plain and Watershed Protection District; the locus is also not located in the Town of Scituate Water

Resource Protection District. The premises lie in Zone X as shown on FIRM Map Community Panel #250282 0106K, dated November 4, 2016.

The Town of Scituate Zoning Bylaw requires property located in the R-2 Residential District to consist of 20,000 square feet lot area, 125 feet of lot width, and 100 feet of frontage. The Bylaw also requires single family dwellings to meet 15 feet side yard setbacks, 30 feet front yard setback and 20 feet rear yard setback for a dwelling.

The lot was created by a plan dated May 2, 1925 and the single-family dwelling thereon, pursuant to the Scituate Assessor's records, was constructed in 1928. The dwelling does not meet the easterly side yard requirement as it sits 10.7 feet from the lot line. The Lot does not meet current lot area and lot width requirements of the Bylaw. Both the dwelling and the lot are therefore pre-existing and nonconforming to said provisions of the Town of Scituate Zoning Bylaw.

At the May 26, 2021 public hearing, the Board reviewed with the owner and his representative a copy of a plan drawn by Ross Engineering Co. Inc. of Norwell, Massachusetts showing both existing conditions, and also reviewed the Scituate Assessor's card and the deed to the property.

The plan calls for the construction of a 29.5' x 16.0' two-story addition to the existing dwelling. The proposal will increase the total gross floor area of the dwelling from 1,380 square feet to 2,324 square feet, an increase of 64%. The proposed addition will lie 11.3 feet from the easterly lot line.

To allow Applicant's proposal, located on a pre-existing nonconforming lot which contains a pre-existing nonconforming dwelling that does not meet setback requirements of the Scituate By-Law, and which will increase the gross floor area of the dwelling by more than 20%, Section 810.2 of the Scituate Bylaw requires a Board of Appeals finding under M.G.L. Chapter 40 § 6 and Special Permit under said Section 810.2.

No one in attendance at the public hearing spoke in favor or against the proposal.

Based upon the evidence presented, the Board finds that both the lot and the single-family dwelling are pre-existing and nonconforming to the Bylaw, by way of deficient lot area, lot width and the dwelling's easterly side yard setback. The Applicant's proposal is therefore entitled to review pursuant to the terms of M.G.L. c. 40A § 6. The Board specifically finds that the two-story addition as proposed will not create any new nonconformities. The Board further specifically finds that said addition is not substantially more detrimental than the existing nonconforming nature and use of the property to persons, property and improvements in the neighborhood.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's request for a finding under M.G.L. Chapter 40A § 6 and for a Special Permit pursuant to Section 810.2 of the Scituate Zoning By-Law to allow the proposed addition, extension, or structural change to the single-family dwelling at 1 Summit Avenue Road.

SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



George Xixis



Edward C. Tibbetts

Filed with the Town Clerk on July 7, 2021

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