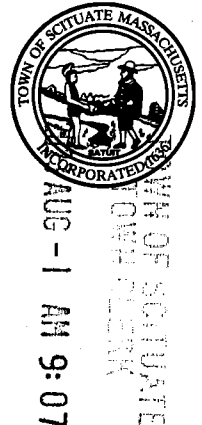


# Town of Scituate

## ZONING BOARD OF APPEALS

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



Decision of the Scituate Zoning Board of Appeals (Board) on the modification of the application of Burke Development, LLC for a Special Permit/Finding under MGL c. 40A, § 6 to raze and rebuild a mixed use building at 12 Old Country Way, Scituate, MA 02066.

The Board previously issued a decision on this matter on April 20, 2023 (see decision annexed hereto and incorporated herein), but based upon concern regarding relief requested by the Applicant regarding percentage of impervious surface it was determined that a modification of the decision was necessary.

The application was received, readvertised and a public hearing was duly held on June 15, 2023 with the following members of the Zoning Board of Appeals hearing the application:

George Xixis, Chair  
Justin M. Marks  
Christopher Carchia

The property is owned by the applicant, as evidenced by a deed dated June 24, 2022 and recorded at the Plymouth County Registry of Deeds in Book 56976, Page 44. The property is known as 12 Old County Way as depicted on the plan to accompany petition prepared by Morse Engineering Co., Inc. dated March 14, 2023 and revised April 13, 2023 ("Site Plan"). According to the Town of Scituate Assessor's Card, submitted to the Board by the applicant, the property was constructed in 1900 with the 2-family dwelling and 1940 for the detached mixed-use garage/bungalow building and the property contains 7,550 square feet of land area. The property is not located within a FEMA flood plain, but is located entirely within the Town of Scituate Water Resource Protection District.

The applicants seek to raze and rebuild the mixed-use structure that is non-conforming due to square footage in lot area, front yard setback, side yard setback and rear yard setback, street facing width, front yard impervious coverage and setback due to tributary (Zone A).

The applicants were represented at the hearing by Gregory Morse, P.E. of Morse Engineering Co., Inc. and Walter B. Sullivan, Esq.

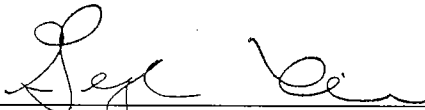
Upon review of the application and hearing testimony from the applicants and the applicants' representatives, and the public, the Board made the following finding:

- A. The current structures and premises and non-conforming due to inadequate square footage, front yard setback, side yard setback, rear yard setback, street facing width and front yard impervious coverage.


- B. That the proposed Special Permit/Finding under §610.3 to allow the applicant to raze and rebuild a structure at 12 Old Country Way does not create any substantial new non-conformities. The property is in the GCG-GVC zoning district and as such the proposed use as mixed-use building is appropriate.
- C. That the proposed structure is not substantially more detrimental to the surrounding neighborhood. There is no undue nuisance or serious hazard as a result of the proposed use.
- D. Adequate and appropriate facilities are provided for the reconstructed structure. There is Town Water and it is on municipal sewer.
- E. That the proposed reconstruction results in a net decrease of impervious land surface within the water resource protection district as noted on the plan and that any increase in impervious front yard area is de-minimus.

Based on the foregoing, the Board unanimously voted to GRANT the applicants' request for a Special Permit/Finding pursuant to Scituate ZBL §810.2B of the Town of Scituate Zoning By-Laws, to allow the applicant to raze and rebuild a structure at 12 Old Country Way.

#### SCITUATE ZONING BOARD OF APPEALS

  
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George Xixis, Chair

  
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Justin M. Marks

  
\_\_\_\_\_  
Christopher Carchia

Filed with the Town Clerk on 8/1/2023.

Appeal of this special permit may be made pursuant to MGL Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of filing of the decision with the Town Clerk.