

# Town of Scituate

ZONING BOARD OF APPEALS

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



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TOWN OF SCITUATE  
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Decision of the Scituate Zoning Board of Appeals on the application of Anthony L. Amonte and Laurie A. Amonte of 58 Turners Way, Norwell, Massachusetts (hereinafter, the “**Applicants**”) for a finding in accordance with Scituate Zoning Bylaw Sections 810.2, 950.2D, and/or G.L. Ch. 40A, Section 6, and/or any other relief that the Board of Appeals may grant, that the alteration, extension, or structural change in the form of 420 SF of additional living space above the first floor of the detached pre-existing nonconforming garage, on a pre-existing nonconforming lot at 129 Humarock Beach, Scituate, MA (Assessor’s Parcel 71-6-13-0), will not be substantially more detrimental or injurious to the neighborhood, than the existing structure (hereinafter, the “**Requested Relief**”).

The application was received, advertised, and a public hearing was held on May 26, 2021. The following members were present and voted at the public hearing:

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

The Applicants were represented at public hearing by attorney Jeffrey A. De Lisi of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, MA.

The subject property is owned by Anthony L. Amonte and Laurie A. Amonte, Co-Trustees of the ALA Nominee Trust per deed dated October 25, 2000, and recorded with the Plymouth County Registry of Deeds at Book 19166, Page 125 (hereinafter, the “**Property**”). The Property contains 11,000 square feet of lot area, is laid out on a plan dated and recorded prior to the adoption of zoning in the Town of Scituate. The said record plan is recorded with the Plymouth County Registry of Deeds in Plan Book 1, Page 91.

Along with the said application, deed, and record plan, the Applicants filed the following material with the Board of Appeals:

1. A copy of the current Assessor's Field Card from the Scituate Assessor
2. Plot plan showing the existing and proposed dwelling entitled "PROPOSED CONDITIONS 129 HUMAROCK BEACH SCITUATE, MA (HUMAROCK)" dated March 11, 2011 prepared by Atlantic Coast Engineering, LLC. (hereinafter, the "**Plot Plan**");
3. Mass GIS image of the Locus;
4. Google Earth image of the locus;
5. Zoning Decision recorded with Plymouth Registry of Deeds on February 21, 2002 in Book 21581, Page 133 demonstrating pre-existing, nonconforming status of the property.

The Property is located in the Residence R-3 zoning district, contains a single-family dwelling thereon, and is pre-existing, nonconforming to lot frontage (50 Ft. in a 100 Ft. zone) and lot width (50 Ft. in a 100 Ft. zone). The two-story dwelling and accessory structure thereof (hereinafter, the "**Dwelling**") contain 3,222 Sq. Ft. of gross floor area. The Dwelling is nonconforming in regard to the front setback (25 Ft. in a 30 Ft. zone) and south side-setback (1.6 Ft. in an 8 Ft. zone).

The Applicant does not propose to introduce any new nonconformities, and the proposed alteration to the Dwelling will lie within the layout of the existing Dwelling.

According to the Plot Plan, the existing gross floor area will be increased from 3,222 Sq. Ft. to 3,642 Sq. Ft., a percentage increase of 13%.

The Applicants demonstrated pre-existing nonconforming status, and Board of Appeals considered the Requested Relief pursuant to the last paragraph of Zoning Bylaw Section 810.2 that provides as follows:

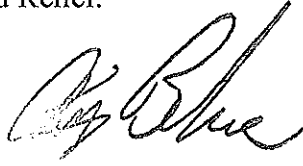
"In all other instances of alteration, reconstruction, extension or structural change to single- or two-family dwellings, the Applicants may petition the Board of Appeals for a finding under General Laws 40A, Section 6 to allow the proposed repair, alteration, reconstruction, extension or structural change."

G.L. Ch. 40A, Section 6 provides, in relevant part, that zoning ordinances or bylaws shall not apply to lawful pre-existing nonconforming structures or uses, but shall apply to any reconstruction, extension or structural change to provide for its use for a substantially different manner or to a substantially greater extent "except where alteration, reconstruction, extension or structural change to a single or two-family home does not increase the nonconforming nature of said structure" Said Section 6 further provides that "pre-existing nonconforming structures and 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

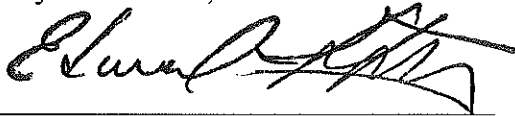
substantially more detrimental than the existing nonconforming [structure or] use to the neighborhood.”<sup>1</sup>

Based upon the application materials, including the Plot Plan, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicants have demonstrated that they are entitled to the Requested Relief. The Board specifically finds that the proposed reconstructed dwelling on the Property shall not be substantially more detrimental than the current pre-existing nonconforming dwelling or use to the neighborhood.

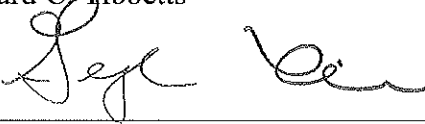
For the foregoing reasons, the Board unanimously voted to GRANT the finding and the Requested Relief.



Anthony J. Bucchere, Chairman



Edward C. Tibbetts



George Xixis

Filed with the Town Clerk and Planning Board: June 23, 2021

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

<sup>1</sup> The words “structure or” appearing in the brackets in the quoted sentence were supplied by Willard v. Board of Appeals of Orleans, 25 Mass. App. Ct. 15,21,514 N.E.2d 369 (1987), and later noted and applied in Rockwood v. Snow Inn Corp., 409 Mass. 361, 363 n.4, 364, 566 N.E.2d 608 (1991).