

Town of Scituate

ZONING BOARD OF APPEALS

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



RECEIVED
2021 NOV 17 PM 1:19
TOWN OF SCITUATE
ZONING BOARD

Decision of the Scituate Zoning Board of Appeals on the application of Peter McCarron of 82 Rebecca Road, Scituate, Massachusetts (hereinafter, the “**Applicant**”) 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, to allow the razing and reconstruction of a pre-existing, nonconforming single-family dwelling at 135 Rear Glades Road, Scituate MA (Assessor’s Map 5, Block 3, Parcel 54) and increasing the gross floor area by more than 20% (hereinafter, the “**Requested Relief**”).

The application was received, advertised, and a public hearing was held on October 21, 2021. The following members were present and voted at the public hearing:

Anthony J. Bucchere, Chairman
George Xixis
Susan Harrison

The Applicant was represented at public hearing by their land surveyor, Paul Mirabito of Ross Engineering Company, Inc. of 683 Main Street, Norwell, MA.

The subject property is owned by Peter McCarron per deed dated June 30, 2021, and recorded with the Plymouth County Registry of Deeds at Book 55286, Page 154 (hereinafter, the “**Property**”). The Property contains 12,538 square feet of lot area, and its metes and bounds are described in the said deed.

Along with the said application and deed, the Applicant 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 "ZBA SITE PLAN FOR 135 REAR GLADES ROAD IN SCITUATE, MA" dated September 14, 2021 prepared by Ross Engineering Company, Inc. (hereinafter, the "**Plot Plan**"); and
3. Images of the locus.

The Property is located in the Residence R-3 zoning district, contains a single-family dwelling and a detached residential accessory structure 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 existing approximately 1,800 Sq. Ft. dwelling on the Property was constructed in 1920 according to the records of the Tax Assessor, and it pre-dates the adoption of residential zoning in Scituate. Additionally, the Property is a so-called "pork-chop" shaped lot, and, consequently, a small portion of the said existing dwelling is nonconforming to what is technically a side-yard property line that is parallel to Glades Road on the northeasterly side yard. That side yard nonconformity is approximately 1.5 feet in an 8-foot zone. In all other respects the existing dwelling is conforming to Scituate's dimensional zoning requirements.

The Applicant proposes to raze the existing dwelling, and to reconstruct a new dwelling that does not propose to introduce any new nonconformities, and, in fact, entirely eliminates the said existing side-yard nonconformity. The new dwelling is proposed to be elevated onto piles in accordance with FEMA and Commonwealth of Massachusetts regulations, and the elimination of the existing foundation will allow water from the Atlantic Ocean to flow underneath the dwelling, as opposed to being displaced onto other properties. The Applicant does not propose to alter or modify the existing, detached residential structure. According to the zoning application, the existing gross floor area will be increased to 4,800 Sq. Ft., a percentage increase of 267%.

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.”¹

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 does not create any new nonconformities, and, to the extent that it intensifies existing nonconformities, the proposed modifications or alterations will 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.

SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Susan Harrison



George Xixis

Filed with the Town Clerk and Planning Board: November 17, 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.

¹ 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).