

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
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Decision of the Scituate Zoning Board of Appeals on the application of William Murphy for a finding under MGL 40A § 6 and a special permit in accordance with Section 470.6.F and Section 810.2 of the Scituate Zoning Bylaw to allow the razing and reconstruction of the pre-existing, non-conforming single-family dwelling located at 145A Glades Road, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on November 18, 2021 with the following members of the Zoning Board of Appeals hearing the application:

Anthony J. Bucchere, Chair
Susan Harrison
George Xixis
Justin M. Marks, Alternate
Christopher Carchia, Alternate

The property that is the subject matter of this application is located in the R-3 Residential District. The property lies in the Town of Scituate Flood Plain and Watershed Protection District, but does not lie in the Town of Scituate Water Resource Protection Zoning District. The property is located within FEMA ZONE AE (El. 15) as shown on FIRM Community Panel 25023C 0107K dated November 4, 2016

At the time of the application, title to the premises was in the name of William P. Murphy and Susan M. Murphy, Joint Tenants, by way of a deed dated November 9, 2001 and recorded with the Plymouth County Registry of Deeds in Book 20975 Page 254, and is shown on the Scituate Assessors Map 5 Block 3 Parcel 76.

The premises contain 2,737 square feet of land and contains 38 feet of frontage and lot width along a right of way off Glades Road, a public way. The R-3 Residential District requires 10,000 square feet lot area and 100 feet of frontage and 100 feet of lot width. In addition, the R-3 Residential District requires a 30 feet front setback, 8 feet side yard setbacks, 8 feet rear yard set back for detached accessory structures and 20 feet rear yard setback for all other buildings.

The lot is shown on a plan dated March, 1917, drawn by George H. Wetherbee, Jr., C. E. which plan is recorded with the Plymouth County Registry of Deeds and referred to in Applicant's deed.

The existing single-family dwelling located upon the lot was constructed in 1920. In addition to lot area frontage and lot width, the existing dwelling does not meet front and side yard setback requirements of the Town of Scituate Zoning Bylaw; however, the dwelling is conforming as to its rear yard setback requirement.

The lot upon which the dwelling sits is nonconforming as to lot area, lot width, and frontage. Both the lot and the existing single-family dwelling, therefore, are pre-existing and non-conforming to the Scituate Zoning Bylaw.

At the November 18, 2021 public hearing, the Board reviewed with the Applicant a plan drawn by Morse Engineering Company, Inc. of Scituate, Massachusetts dated October 6, 2021. The proposal calls for the razing of the current 685 square foot single family dwelling and reconstructing a 2,156 single family dwelling. The front yard and Northerly side yard setback will remain the same, while the Southerly side back will be improved to 3.4 feet and the rear yard setback will remain conforming.

At the public hearing, no one spoke in favor or in opposition to the Application, but one abutter discussed with the Board a question regarding the demolition of the existing dwelling and regarding house plans which the Board reminded the abutter were public record.

Chapter 40A § 6 of Massachusetts General Laws and the relevant case law allows the reconstruction, alteration or addition to a pre-existing non-conforming single-family dwelling if the Board first identifies the particular respect or respects in which the existing structure does not conform to the present Bylaw and then determine whether the proposed reconstruction, alteration or addition would intensify the existing nonconformities or result in additional ones. If the answer to that inquiry is in the negative a finding under Chapter 40A § 6 and Special Permit is required.

Based upon the evidence presented, the Board finds that the both the lot and existing single-family dwelling known as and numbered 145 A Glades Road are pre-existing and nonconforming to the bylaw as to lot area, width, frontage and side yard and front yard setback requirements. The Applicant's proposal to raze and reconstruct the existing single-family dwelling is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6, paragraph one.

The existing floor area of the dwelling is 685 square feet, and the proposed floor area of the reconstructed dwelling is 2,156 square feet, a 215% increase. Under Section 810.2 of the Scituate Bylaw, the alteration, reconstruction, extension or structural change to a nonconforming single- or two-family dwelling that increases the gross floor area by more than 20% requires a Board of Appeals finding under General Laws Chapter 40A, Section 6 and Special Permit.

The Board found that the lot and single-family dwelling located thereon is preexisting and nonconforming to the Scituate Zoning Bylaw as to lot area, lot width, frontage, front setback, and side yard setbacks. The Board further found that the proposed reconstruction does create any new non-conformities and improves one side yard non-conformity, and proposal therefore does not intensify existing nonconformities or result in additional ones.

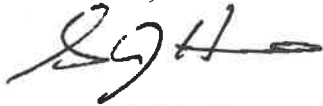
Pursuant to Section 950.3 of the Bylaw, the lot is appropriate for a single-family dwelling. The use of the dwelling should not adversely affect the neighborhood, nor create any undue nuisance or hazard to vehicles or pedestrians. The town's Board of Health and the Building Commissioner will ensure that appropriate facilities are provided to assure the proper operation of the single-family dwelling. The proposed use of dwelling will not have a significant impact on any public or private water supply, and the lot is not located within the Water Resource Protection District. In addition, the Board finds that the use reflects the nature and purpose of the use prevailing when the bylaw took effect, that there is no difference in the quality or character, as well as the degree of use, and the proposed use is not different in kind in its effect on the neighborhood.

For the foregoing reasons, the Board unanimously voted to GRANT the Applicant's request for a finding under MGL Chapter 40A § 6 and for a Special Permit to raze and reconstruct the single-family dwelling as shown on the Application Plan.

SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



Susan Harrison



George Xixis

Filed with the Town Clerk on January 31, 2022

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