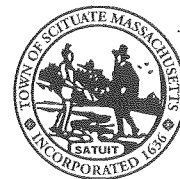


# Town of Scituate

## ZONING BOARD OF APPEALS

600 CHIEF JUSTICE CUSHING WAY  
SCITUATE, MASSACHUSETTS 02066  
(781) 545-8716



RECEIVED

2017 MAR 21 AM 10:22

TOWN OF SCITUATE  
TOWN CLERK

Decision of the Scituate Zoning Board of Appeals on the application of Francis J. Nash, Jr. of 15 Cherry Lane, Scituate, MA for a finding under MGL 40A § 6 and the Scituate Zoning Bylaws to allow an addition to a pre-existing non-conforming detached single story garage on a non conforming lot at 15 Cherry Lane, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on March 16, 2017 with the following members of the Zoning Board of Appeals hearing the application:

John Hallin, Chairman  
Edward C. Tibbetts  
Francis M. Lynch  
Anthony Bucchere

The property that is the subject matter of this application is located in the R-3 Residential District. The property does not lie in the Town of Scituate Flood Plain and Watershed Protection District, nor does the property lie in the Town of Scituate Water Resource Protection Zoning District.

At the time of the application, title to the premises was in the name of Francis J. Nash, Jr. and Kathleen P. Nash by way of a deed dated July 29, 2010 and recorded with the Plymouth County Registry of Deeds in Book 38797 Page 126.

The property contains 13,540, more or less, square feet of land with 78.57 feet of frontage along Cherry Lane, a public way, and lot width of less than 80 feet. 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 setback for detached accessory structures and 20 feet rear yard setback for all other buildings.

The lot was created by a plan dated October 22, 1914, which plan is recorded with the Plymouth County Registry of Deeds in Plan Book 2 Page 420.

According to the submitted Town of Scituate Assessors Card, the existing dwelling located upon the lot was constructed in 1920. The existing detached garage is nonconforming for southerly side yard setback requirements of the Town of Scituate Zoning Bylaw (7.4 feet); and the lot upon which the dwelling sits is nonconforming as to lot frontage and lot width. The lot and detached garage are pre-existing and non-conforming to the bylaw as to its lot frontage, lot width and side yard setback.

The Board reviewed with the Applicant a plan drawn by Morse Engineering Company, Inc. of Scituate, Massachusetts dated July 14, 2016. The proposal calls for the construction of a one story addition on the westerly side of the garage that will be no closer than the existing side yard setback (7.4 feet).

At the public hearing, no member of the audience spoke in favor or in opposition to the Application.

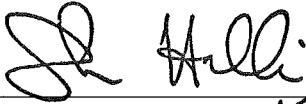
The case of Gale v. Zoning Board of Appeals of Gloucester (2012), allows the addition to a pre-existing non-conforming single family dwelling if the Board first identifies the particular respect or respects in which the existing structure does not conform to the present Bylaw and then determine whether 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 would be required.

Based upon the evidence presented, the Board finds that the both the lot and existing detached garage located at 15 Cherry Lane are pre-existing and nonconforming to the bylaw as to lot frontage and lot width and side yard setback. The Applicant's proposal to construct a one story addition to the detached garage is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6, paragraph one.

The Board found that the lot and detached garage located thereon are preexisting and nonconforming to the Scituate Zoning Bylaw as to lot frontage and lot width and side yard setback. The Board further finds that the proposed addition will not create any new nonconformity and to the extent that it may intensify any existing nonconformities such intensifications are not significantly more detrimental to the neighborhood than the existing structure.

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 construct an addition to the detached garage by adding a one story addition as shown on the Application Plan. The Board conditions that the detached garage shall not now or ever be used as a dwelling.

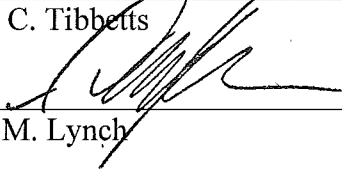
ZONING BOARD OF APPEALS



John Hallin



Edward C. Tibbetts



Francis M. Lynch

Filed with the Town Clerk and Planning Board on March 21, 2017

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.