

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 on the application of Leo McDonough of 16 Salt Meadow Lane, Scituate, MA (hereinafter, the "**Applicant**") for a special permit in accordance Scituate Zoning Bylaw Sections 420.1.H and 950.3, and/or any other relief that the Board of Appeals may grant, to allow for the construction of a private garage for more than three automobiles at 22 Salt Meadow Lane, Scituate, MA (Assessor Parcel No. 57-235-C) (hereinafter, the "**Property**").

The application was received, advertised, and a public hearing was held on September 21, 2023. The following members were present and voted at the public hearing:

George Xixis, Acting Chairperson
Christopher Carchia
Gregory Fleming

The Applicant was represented at the public hearing by his attorney, Jeffrey A. De Lisi, of Ohrenberger, De Lisi & Harris, LLP of 28 New Driftway, Scituate, MA, and by Paul J. Mirabito of Grady Consulting, L.L.C.

The Property is owned by the Applicant pursuant to a deed recorded with the Plymouth County Registry of Deeds at Book 51661, Page 52. The Property was laid out as a single-family dwelling lot and shown as Lot 6 on a plan recorded with the said Registry at Plan Book 12, Page 773 as Plan No. 835 of 1962.

In addition to the required application and zoning chart, the Applicant filed the following materials with Board of Appeals:

1. Cover letter and project narrative of Grady Consulting dated August 16, 2023;
2. Assessor's Field Card;
3. Said deed and recorded plan referenced therein;
4. Photographs of the Property; and
5. Grady Consulting plot plan entitled "ZBA SITE PLAN FOR #22 SALT MEADOW IN SCITUATE, MASS." dated August 10, 2023 (hereinafter, the "**Plot Plan**").

The Property is a vacant parcel of land, except for a small shed thereon. The Applicant owns a separate adjoining lot to north which contains a dwelling with a residential address of 16 Salt Meadow Lane. Evidence exists of an intention to keep the two properties separate, and the Board discussed with the Applicant and recognizes and agrees that the Applicant's special permit request proposes to continue with the two lots maintaining their separate identities, without merger, so that either one of the two properties may be separately alienated.

Specifically, the Applicant proposes to construct an approximately 40 ft. x 34 ft. footprint garage for more than three vehicles, with a storage room above. There presently exists a curb cut and drive for access to an existing shed on the Property, which is to be razed. According to testimony of the Applicant, the garage would appear consistent in materials and architecture with the many homes in this residential neighborhood, and would be dimensionally compliant with all zoning setbacks.

The Property itself is located partially in the Town of Norwell and partially in the Town of Scituate. Within the Town of Scituate, the Property is located in two zoning districts, one demarking upland and one demarking wetland; the upland (where the proposed garage is to be constructed) is located in the R-1 Zoning District, while the wetland is located in the Saltmarsh and Tideland Conservation District. The overall total land area of the Property is 53,647 SF. The Property is pre-existing, nonconforming as to required upland lot area (required to be 40,000 SF in the R-1 Zone), and frontage on the cul-de-sac of Salt Meadow Lane, which nonconformity the Board considers de minimis because it is subjectively short by a matter of mere centimeters, that being 59.89 ft. in a 60 ft. zone.

Section 420 of the Scituate Zoning Bylaw sets forth various principal and accessory use categories of land in the zoning districts in the Town of Scituate. Notably, subsection 1.H thereof allows the principal use of land in the R-1 zoning district to be for "Private garage for more than 3 automobiles" upon the issuance of a special permit. Pursuant to Zoning Bylaw Section 930.3, the Board of Appeals is authorized to grant such a special permit if it is assured as follows:

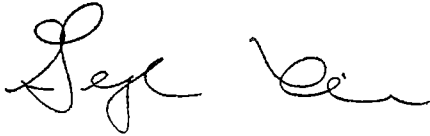
- A. The specific site is an appropriate location for the use or structure.
- B. The use as developed will not adversely affect the neighborhood.
- C. There will not be an undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure.
- D. Adequate and appropriate facilities will be provided to assure the proper operation of the proposed use or structure.
- E. There will not be any significant impact on any public or private water supply.
- F. If the subject site is located within the Water Resources Protection District, there will not be any significant or cumulative impact upon municipal water supplies, and the board shall give appropriate consideration of nitrate-nitrogen loading in making this determination. The board shall require the applicant to provide all of the required submittals listed in Section 520.5.F. prior to making such determination.

The Applicant's proposal meets the use requirement set forth in the zoning bylaw. The Applicant does not propose a business use, and, following abutter input and initial comments of the Board, Mr. McDonough agreed to provide a vegetated buffer into the lot for a distance of 50 feet, as further defined below. The Board further recognized that the proposed garage will be able to be utilized for storage of certain miscellaneous materials and personal property that are presently located outside elsewhere on the Property, which is a benefit to the neighborhood. There would clearly be minimal need for facilities and minimal impact on municipal resources, and no foreseeable undue nuisance or serious hazard presented by the proposed use. This being an allowable use in the zoning district, there was no evidence before the Board that the proposed use would adversely affect the

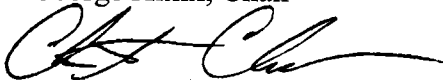
neighborhood. Accordingly, the Board was assured that the application met the required criteria set forth in Zoning Bylaw Section 930.3.

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 Applicant has demonstrated that he is entitled to the Requested Relief.

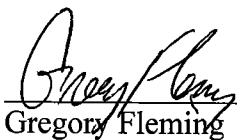
For the foregoing reasons, the Board unanimously voted to GRANT the requested finding, and the Requested Relief, and to issue the special permit for this unmerged parcel to allow the construction and use of the proposed garage for more than three vehicles, including storage area, having a footprint of approximately 40' x 34', pursuant to the Plot Plan dated August 10, 2023, upon the condition that the Applicant shall create vegetated buffer plantings along the westerly line of the easement which extends from the top of the cul-de-sac at Salt Meadow Lane along the easterly side yard of the Property. The said vegetated buffer plantings shall run for a continuous distance of at least fifty feet from the terminus of Salt Meadow Lane in a general southerly direction. The Board further specifically found that the proposal does not create any new nonconformities, and, to the extent that it intensifies any existing nonconformities, that said intensification is not substantially more detrimental to the neighborhood than the existing circumstance at the Property.



George Xixix, Chair



Christopher Carchia



Gregory Fleming

Filed with the Town Clerk and Planning Board: OCTOBER 25, 2023

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 or Land Court Registry 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. Ch. 40, Section 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.