



Decision of the Scituate Zoning Board of Appeals on the application of Jeanine Olschan of 1827 Marion Road, Cheshire, CT under Scituate Zoning By-laws 830 and 810.2.4 to allow the razing and reconstruction of the pre-existing non-conforming structure on the property which was destroyed by accidental cause, fire, and to increase the gross floor area of the structure by more than 20%.

The application was received, advertised, and a public hearing was duly held on February 21, 2013 with the following members of the Zoning Board of Appeals hearing the application:

Peter Morin, Chairman  
Sara Trezise  
Ed Tibbetts

The property is located at 24 Webster Street. The property is a corner lot located at the intersection of Webster St. and Humarock Beach Road. The building that was on the property was a two and a half story single family home which according to Town Assessors records was constructed in 1935. The property was destroyed by a multi-structure fire on March 9, 2012. The application seeks approval to reconstruct the dwelling with a new dwelling having a larger gross floor area (GFA) than previously existed. The existing structure had a GFA of approximately 2,122 square feet. The proposed GFA is 2,923 square feet or 38% greater than that of the dwelling that was destroyed by the fire.

The property is located in the residential "R3" zoning district. The existing lot size and front property line setbacks of the house are non-conforming and pre-exist current zoning requirements, the structure having been built in 1935. The following table illustrates the existing and proposed non-conformities relative to current applicable dimensional requirements contained in Section 600 – Dimensional Regulations.

	Lot Area (sq. ft.)	Lot Width	Frontage	Property Line Front Setbacks	Property Line Side Setbacks	Property Line Rear Setbacks
<b>Required</b>	10,000	100'	100'	30'	8'	20'
<b>Existing</b>	7,500	150'	150'	.5' (Webster) 30.7' (HBR)	1.8'	47.5' House 4.9' Shed

<b>Proposed</b>	7,500	150'	150'	.5' (Webster) 42.5' (HBR)	8.4' House 1.8' Shed	48.2' House 4.9' Shed
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The Applicant intends to raze the existing structure and replace it with a larger structure. The applicant intends to pull back the easterly side of the structure that faces Humarock Beach Road to take the structure out of the VE Zone to the AO Zone. The first floor will be raised on wood driven pilings to elevation 19.3 feet.

Scituate Zoning By-law 830 in relevant part states: "A nonconforming structure or use damaged or destroyed by accidental causes may be repaired, reconstructed or restored either within the same portion of the lot or within a different portion of the lot provided that doing so renders the structure less non-conforming than previously and used as before, provided that such repair, reconstruction or restoration shall be completed within four years of said accidental damage or destruction"...

Since the present structure is non-conforming dimensionally and uninhabitable, having been destroyed by the March 9, 2012 fire, and the structure will be rebuilt with more conforming setbacks, making the structure less non-conforming than previously, the Board voted to approve the application allowing the reconstruction of the home pursuant to Scituate Zoning By-laws 830 and 810.2.4.

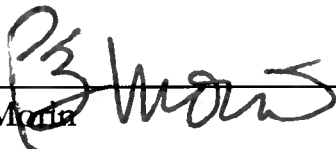
In approving this application, the Board found the criteria required under Section 950.3 A through E will be satisfied by the present plans as follows:


- A. The locus is in a residentially zoned district. As such the specific site is an appropriate location for both the use and structure.
- B. The proposed use will not adversely affect the neighborhood as the new structure will conform in all respects to the building code in effect at the time of construction and therefore the home will be safer than the prior antiquated preexisting structure. There will be no change in the present residential use of the property.
- C. There will be no undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure. The use will remain the same.
- D. Adequate and appropriate facilities will be provided to assure the proper operation of the proposed use and structure. Current environmental, health and building codes require that the Building Commissioner issue a building permit only upon his satisfaction as to complete and total compliance with the aforesaid codes.

E. Whereas the structure will be serviced by the existing on-site septic system and whereas there are no known potable wells within 100' of the locus, there will be no impact on any public or private water supply.

For the foregoing reasons, the Board unanimously voted to GRANT the application to permit the razing and reconstruction of the current dwelling and permit construction of a new larger single family dwelling as proposed on the site plan for 24 Webster Street submitted by the applicant with her application and dated January 18, 2013 drawn by Cavanaro Consulting, FINDING that the same will not be substantially more detrimental to the neighborhood than the current pre-existing nonconforming dwelling.

#### SCITUATE ZONING BOARD OF APPEALS

  
Peter Morin

  
Sara Trezise

  
Ed Tibbetts

Filed with the Town Clerk on: March 6, 2013.

This Special Permit/Finding will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County 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 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.