

Town of Scituate

ZONING BOARD OF APPEALS

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



Decision of the Scituate Zoning Board of Appeals on the application of Stephen Bohn and Mary Louise Bohn of 25 Circuit Avenue, Scituate, Massachusetts (hereinafter, collectively, 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, that the alteration, extension, or structural change to the pre-existing nonconforming single-family residential dwelling, on a pre-existing nonconforming lot at 25 Circuit Avenue, Scituate, MA (Assessor's Parcel 51-1-10-0) (hereinafter, the "Property"), will not be substantially more detrimental or injurious to the neighborhood, than the existing structure (hereinafter, collectively, the "Requested Relief").

The application was received, advertised, and a public hearing was held on September 20, 2018. The following members were present and voted at the public hearing:

Edward C. Tibbetts, Acting Chairman
Anthony J. Bucchere
Thomas J. Cavanagh

The Applicant was present at the public hearing and was represented by attorney Jeffrey A. De Lisi of Ohrenberger, De Lisi & Harris, LLP, of 28 New Driftway, Scituate, Massachusetts.

The Property is owned by the Applicant by deed filed with the Plymouth Country Registry of Deeds at Book 43922, Page 203, and is laid out on a plan recorded at the said Registry in 1922. The Applicant provided the Board with a site plan entitled "Zoning Board of Appeals Plan for 25 Circuit Avenue in Scituate, Mass." dated August 21, 2018, Scale 1" = 10', prepared by Ross Engineering Company Inc. (hereinafter, the "Site Plan"). According to the Site Plan, the Property is located in the Residence R-3 Zoning District, contains 13,164 Sq. Ft. of lot area, and 56.06 Ft. of lot frontage and less than 100 feet of lot width. The Property is improved by a single-family dwelling having a gross floor area of 2,756 Sq. Ft., which dwelling is conforming to all yard setbacks except the northerly sideline where it is approximately 0.8 ft. from the property line. According to the records of the Scituate Assessor, the dwelling was constructed in 1920. Therefore, both the dwelling and the lot are dimensionally nonconforming.

The Applicant proposes to construct a small addition on the rear of the existing dwelling having a footprint of approximately 108 Sq. Ft. that will be entirely located within the building envelope and will conform to all dimensional requirements of the Scituate Zoning Bylaw (hereinafter, the "Addition"). According to the Site Plan, the increase of total gross floor area is proposed to be approximately 4.0%.

Section 810.2 of the Zoning Bylaw allows the building inspector to issue a building permit without requiring zoning relief for a repair, alteration, reconstruction, extension or structural change of a lawful, dimensionally nonconforming single-family dwelling that does not increase the gross floor area by more than 20% in two scenarios: (i) in the case of a building which is nonconforming solely because of insufficient lot frontage or area, and (ii) in the case of a dimensionally nonconforming building with sufficient lot frontage and lot area. Per Section 810.2, in all other instances of alteration, reconstruction, extension or structural change to a single-family dwelling, a G.L. Ch. 40A, Section 6 finding is necessary. In this case, since the lot and the building are both nonconforming, the Applicant has requested a finding.

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 purpose or for the same purpose in a substantially

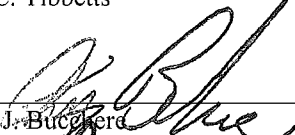
different manner or to a substantially greater extent "except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure." Said Section 6 further provides that "pre-existing nonconforming 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

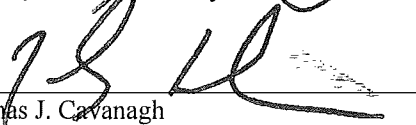
The Board of Appeals specifically voted to find (i) that the lot frontage and lot width of the Property were nonconforming, (ii) that the existing single-family dwelling on the Property is dimensionally nonconforming on the northerly sideline, (iii) that the proposed Addition to the single-family dwelling does not create any new nonconformities or intensify any existing nonconformities, and (iv) that the Addition will not be substantially more detrimental to the neighborhood than the existing dwelling.

Based upon the application materials, 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 findings and the Requested Relief.


Edward C. Tibbetts


Anthony J. Buccheri


Thomas J. Cavanagh

Filed with the Town Clerk and Planning Board: 10/17/18

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 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.

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).