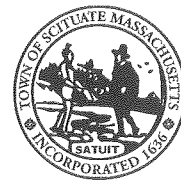


Town of Scituate

ZONING BOARD OF APPEALS

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



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Decision of the Scituate Zoning Board of Appeals on the application of Robert F. Hayes, III, Trustee of Scituate, Massachusetts for a finding under MGL 40A § 6 and/or a Special Permit pursuant to Sections 610.1, 810.2B of the Scituate Zoning Bylaw to raze and reconstruct the pre-existing nonconforming single-family dwelling at 3 Driftway, Scituate, Massachusetts.

The application was received, advertised and a public hearing was duly held on May 17, 2018 with the following members of the Zoning Board of Appeals hearing the application:

John Hallin, Chairman
Sara J. Trezise
Edward C. Tibbetts

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 Water Resource Protection District. The property lies in Zone X as shown on FIRM MAP COMMUNITY PANEL #250282 137 K, dated November 4, 2016.

At the time of the application, title to the premises was in the name of Robert F. Hayes, III, Trustee of 3DC Realty Trust under Declaration of Trust dated March 14, 2018 and recorded with the Plymouth County Registry of Deeds in Book 49547 Page 308 by way of a deed dated March 14, 2018 and recorded with the Plymouth County Registry of Deeds in Book 48547 Page 317.

The premises contain 15,041 square feet of land of land area and 209.41 feet of frontage along Collier Road, a public way in the Town of Scituate, and contains a pre-existing nonconforming single-family dwelling, constructed, pursuant to the current Assessor's field card, in 1909. While the lot complies with the lot frontage, lot area and lot width dimensional requirements of the Scituate Bylaw, the pre-existing dwelling is located 2.5 feet from Collier Road and 4.8 feet from its Northerly sideline.

At the May 17, 2018 public hearing, the Board reviewed with the Applicant a plan drawn by Ross Engineering Company, Inc. of Norwell, Massachusetts dated April 9, 2018. The plan shows the reconstructed dwelling eliminating the existing front yard and side yard nonconforming setbacks. The proposed setbacks are 11.4 feet front yard setback, 23.5 feet and 11.3 feet side setbacks and 71.1 feet rear yard setback. The proposed front yard setback is conforming as it is less than the average setback pursuant to 610.2 of the Bylaw. All other proposed setbacks conform to the requirements in the zoning district pursuant to Section 620.3 of the Bylaw. The plan also shows the proposal meets the lot width requirements of the Bylaw. The proposal calls for an increase from 2,389 square feet to 5,089 square feet of the gross floor area, a 113.0% increase.

The Board discussed with the Applicant that the logical frontage street for the proposal was Collier Road, despite the property address of 3 Driftway. The Applicant stated his intention to work with the Scituate Fire Department and The Department of Public Works to change the property address to Collier Road. Two direct abutters wrote letters of support for the Applicant's proposal, with one of those abutters speaking in favor of the proposal. One abutter and three members of the public expressed concerns with the proposal.

At the public hearing, the Board reviewed the Application and discussed Massachusetts General Law Chapter 40A, and the Scituate Zoning Bylaw Section 810.2.

Based upon the evidence presented, the Board finds that the existing single-family dwelling located at 3 Driftway is pre-existing and nonconforming to the Scituate Zoning Bylaw. The Applicant's proposal to raze and reconstruct the single-family dwelling is entitled to be reviewed by the Board pursuant to the terms of MGL c. 40A § 6, paragraph one.

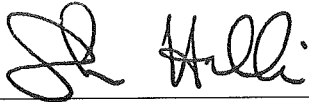
The Board further finds that since the premises contain sufficient lot frontage and sufficient lot area but the dwelling is nonconforming as to its front yard setback and northerly side yard setback, and since the Applicant proposes an increase of the gross floor area to the pre-existing nonconforming single family dwelling by more than 20% the project may not be permitted by the Building Commissioner pursuant to Section 810.2A or 810.2B of the Bylaw, but, pursuant to the final paragraph of Section 810.2 may be allowed by the Board by way of a Finding under General Laws Chapter 40A, Section 6.

The Board therefore finds that the dwelling is located on a lot that conforms to the Bylaws lot area, lot width and frontage requirements but is nonconforming as to the Bylaw's front yard and northerly side yard requirements of the Bylaw. The Applicant's proposal will eliminate the existing nonconformities to the existing dwelling, as the proposal calls for a dwelling to be located upon the conforming lot and meeting all frontage and yard requirements as well as lot width requirements.

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 under Section 810.2 of the Scituate Zoning Bylaw to raze and reconstruct the proposed single-family dwelling at 3 Driftway as proposed in the Applicant's application and Application Plan.

ZONING BOARD OF APPEALS



John Hallin, Chairman



Sara J. Trezise



Edward C. Tibbetts

Filed with the Town Clerk and Planning Board on June 7, 2018

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.