

Town of Scituate

ZONING BOARD OF APPEALS

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TOWN OF SCITUATE

Decision of the Scituate Zoning Board of Appeals on the application Brian and Katherine Cingel, of 3 Poplar Avenue, Scituate, MA for a Special Permit/ Finding under M.G.L 40, Section 6 and/or Section 810.2 of the Scituate Zoning Bylaw to allow the razing and reconstruction of a pre-existing, nonconforming single-family dwelling on a pre-existing nonconforming lot at 3 Poplar Avenue, Scituate MA, Assessor's Map 45, Block 16, Parcel 16.

The application was received, advertised, and a public hearing was duly held on October 21, 2021 with the following members of the Zoning Board of Appeals hearing the application:

Anthony Bucchere, Chairman
George Xixis
Susan Harrison

The property is owned by Brian and Katherine Cingel who acquired the property by deed dated September 15, 2004 and filed with the Plymouth County Register of District of the Land Court as Document No. 573248 and Certificate No. 106104.

The building on the property is a single-family home containing 1,641 square feet which according to Town Assessors' records was constructed in 1958, prior to the adoption of the Scituate Zoning Bylaws. The property is located in the R3 residential zoning district. The subject property is not located within the Town of Scituate Flood Plain & Watershed Protection or Water Resource Protection Districts. There are no known Wetland Resource Areas on the subject property. The subject property lies in FEMA Zone "X" as shown on F.I.R.M. Community Panel but is not in a Flood Hazard Area.

The existing frontage is 99.86 ft, whereas 100 ft. of frontage is required in the district. While the lot is non-conforming due to the frontage, as it pre-existed current zoning requirements, it is legally non-conforming. All other setbacks comply with the R3 residential zoning district and all proposed setbacks will also conform.

The application seeks approval to allow the razing and reconstruction of the dwelling as per plans submitted by the applicant, drawn by Morse Engineering, entitled Plan to Accompany Zoning Board of Appeals Application, dated September 13, 2021. The Plan shows a proposed single-family dwelling containing 3,752 square feet representing an increase in square footage of 128.6%. The proposed dwelling will not create any new non-conformities. Furthermore, it was represented that the septic system was to be located in the front yard, which is also outside the zone.

After reviewing the application and hearing testimony from Greg Morse, the Board found the following:

- a. That the proposed dwelling if constructed per the Plan will not create intensify any pre-existing non-conformities nor create any new non-conformities; and
- b. That to the extent the proposed dwelling intensifies any existing nonconformities, such intensifications will not be substantially more detrimental to the surrounding neighborhood.

Based on the forgoing the Board unanimously voted to GRANT the application to permit the razing and reconstruction of the proposed dwelling per the Plan, subject to the condition that the plan referenced above must be amended to locate the tributary on the property.

SCITUATE ZONING BOARD OF APPEALS



Anthony Bucchere, Chairman



George Xixis



Susan Harrison

Filed with the Town Clerk and the Planning Board on: 11/23/2021

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.