



RECEIVED
TOWN OF SCITUATE
CLERK
OCT 20 PM 5:35

Decision of the Scituate Zoning Board of Appeals on the application of Stanley and Lynne Vozzella of 109 Harbor View Road, Milton, MA under Scituate Zoning By-law 810.2 and M.G.L., c. 40A, Section 6 for a Special Permit to raze and reconstruct of the pre-existing non-conforming structure on the property 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 September 17, 2015 with the following members of the Zoning Board of Appeals hearing the application:

Sara Trezise, Chairperson
John Hallin
Frank Lynch
Anthony Bucchere

The property is located at 31 Lowell Street in the Humarock section of Scituate. It is shown on Assessor's Map 71-05-09 and consists of 4,576 square feet. The record owner is Stanley C. Vozzella and Lynne Vozzella per Deed recorded with the Plymouth County Registry of Deeds, Doc# 00030857, Book 41209, Page 69-70. The building on the property is a single family home which was constructed in 1920 according to the records of the Town Assessor. The applicants seek approval to raze the dwelling and construct a new dwelling having a larger gross floor area (GFA) than previously existed. The proposed structure will have a GFA of 4,628 square feet, which will be an increase of 162% over the existing dwelling. The applicant agreed to submit a revised plan setting forth the GFA of the existing structure, the new structure and the percentage increase.

The property is located in the R3 residential zoning district. The current zoning Bylaw specifies that in this zoning district lots shall have at least 10,000 square feet in lot area and 100 feet in lot frontage and lot width. In addition, the Bylaw provides that structures shall be set back 30 feet from the front, 8 feet from the side and 20 feet from the rear. The existing structure is set back 3.7 feet from the front and 8.4 feet from the rear property line. The proposed new structure will be 4.5 feet from the front and 9.3 feet from the rear property line. The existing structure conforms to the side set back requirements of the Bylaw as will the new structure.

M.G.L. Ch. 40A Section 6, as interpreted by the Massachusetts Appeals Court in *Gale v. Zoning Board of Appeals of Gloucester*, 80 Mass. App. Ct. 331 (2011), and other cases, requires the Board to identify the particular respect or respects in which the existing lot or structure does not conform to the present by-law and then determine whether the proposed alteration or addition would intensify the existing nonconformities or result in additional ones. If the answer is in the negative, the Board is required to grant the Special Permit.

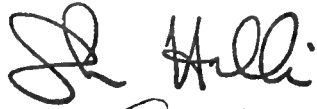
The Board specifically FINDS that the existing property is non-conforming with respect to lot area, lot frontage and lot width; that the existing structure is non-conforming with respect to front yard and rear yard set back requirements; that the proposed new structure will be less non-conforming with respect to the front yard and rear yard set back requirements; that the proposed structure will not intensify or increase any of the existing non-conformities; and that the proposed new structure conforms in all other respects to the dimensional requirements of the Zoning Bylaw.

For the foregoing reasons, the Board unanimously voted to GRANT the application for a Special Permit to raze the current dwelling and permit construction of a new larger single family dwelling as set forth on the Plot Plan submitted by the applicant dated August 19, 2015, Job No. 15-041, by Grady Consulting, LLC., subject to the filing of a revised stamped Plot Plan setting forth additionally the gross floor area of the existing structure, the gross floor area of the new structure and the percentage increase in gross floor area.

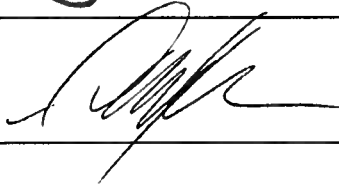
SCITUATE ZONING BOARD OF APPEALS



Sara Trezise



John Hallin



Frank Lynch

Filed with the Town Clerk and Planning Board on OCTOBER 20, 2015

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.