

Town of Scituate

ZONING BOARD OF APPEALS

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Scituate, Massachusetts 02066
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Decision of the Scituate Zoning Board of Appeals on the application of Nicholas and Dianne Accomando, of 31 Peggotty Beach Road, Scituate, Massachusetts, (hereinafter, collectively, the “**Applicant**”) for a finding in accordance with Scituate Zoning Bylaw Sections 950.2D and 810.2, and/or G.L. Ch. 40A, Section 6, and/or any other relief that the Board of Appeals may grant, to construct a second floor addition onto a dimensionally conforming single-family residential dwelling on a pre-existing, nonconforming lot in the Residence R-3 Zoning District at 31 Peggotty Beach Road, Scituate, Massachusetts 02066 (Assessor’s Map 56, Block 1, Parcel 7-0), which will not expand the existing building footprint or create new nonconformities, and which will not be substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure or use (hereinafter, the “**Requested Relief**”).

The application was received, advertised, and a public hearing was held on May 19, 2022. The following members were present and voted at the public hearing:

Anthony J. Bucchere, Chairman
George Xixis
Susan Harrison

The subject property is owned by the Applicant pursuant to deed recorded with the Plymouth County Registry of Deeds at Book 53494, Page 302 (hereinafter, the “**Property**”). The Property contains 5,752 square feet of lot area, is laid out on a plan dated and recorded prior to the adoption of zoning in the Town of Scituate.

Along with the said application, deed, and record plan, the Applicant filed the following materials with the Board of Appeals:

1. A copy of the current Assessor’s Field Card from the Scituate Assessor showing that the dwelling on the Property was constructed in 1937 prior to dimensional zoning;
and

2. Plot plan entitled “Certified Plot Plan” dated May 17, 2021, revised February 11, 2022 prepared by McKenzie Engineering Group (hereinafter, the “**Plot Plan**”).

The Property is located in the Residence R-3 zoning district, contains a single-family dwelling thereon, and the lot is pre-existing, nonconforming as to lot area, (5,752 Sq. Ft. in a 10,000 Sq. Ft. zone), and lot frontage & lot width (46.37 Ft. in a 100 Ft. zone). The 1937, single story dwelling contains 900 Sq. Ft. of gross floor area, and is dimensionally conforming with all setback requirements.

The Applicant does not propose to introduce any new nonconformities, and simply seeks approval to construct an approximately 708 Sq. Ft. second floor addition without expanding the exterior footprint of the existing building, and which will conform to the Scituate Zoning Bylaw’s height requirement.

The Applicant demonstrated pre-existing nonconforming status, and Board of Appeals considered the Requested Relief pursuant to the last paragraph of Zoning Bylaw Section 810.2 that provides as follows:

“In all other instances of alteration, reconstruction, extension or structural change to single- or two-family dwellings, the Applicant may petition the Board of Appeals for a finding under General Laws 40A, Section 6 to allow the proposed repair, alteration, reconstruction, extension or structural change.”


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 manner or to a substantially greater extent “except where alteration, reconstruction, extension or structural change to a single or two-family home 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

Based upon the application materials, including the Plot Plan, the information provided at the public hearing, and the foregoing, the Board of Appeals finds that the Applicants have demonstrated that they are entitled to the Requested Relief. The board specifically finds that the proposed alteration to the existing dwelling on the Property shall not be substantially more detrimental than the current dwelling or use to the neighborhood.


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).

For the foregoing reasons, the Board unanimously voted to GRANT the finding and the Requested Relief.

SCITUATE ZONING BOARD OF APPEALS



Anthony J. Bucchere, Chairman



George Xixis



Susan Harrison

Filed with the Town Clerk and Planning Board: May 24, 2022

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 an 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. 40A, Section 17, and shall be filed within twenty (20) days of the date of filing the decision with the Town Clerk.