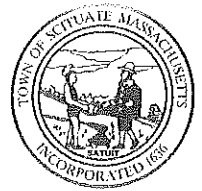


Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
(781) 545-8716



2021 AUG 23 PM 1:03

Decision of the Scituate Zoning Board of Appeals (the "Board") on the Application of Jennifer Morrison and Christopher Morrison (the "Applicants"), pertaining to the single-family dwelling (the "Dwelling") located at 316 Hatherly Road, Scituate, Massachusetts (Assessor's Map 28, Block 1C, Parcels 8C and 8R) (the "Premises"), for a special permit/finding in accordance with M.G.L. c.40A, §6 and Section 470.6 of the Town of Scituate Zoning Bylaw to allow the razing and reconstruction of a pre-existing single-family dwelling on the Premises (the "Project").

The application was received, advertised and a public hearing (the "Hearing") was duly held on July 15, 2021 with the following members of the Zoning Board of Appeals (the "Board") hearing the application:

Anthony Bucchere
George Xixis
Susan Harrison

The Premises is particularly shown as Lot 38 on Land Court Subdivision Plan No. 12503G, and Lot 36 as shown on Land Court Subdivision Plan No. 12503F, combined to contain approximately 39,998 square feet. Record title to the Premises is vested in the late Anthony Joseph Simeone under Plymouth County Land Court Certificate of Title No.'s 79873 and 27259.

Applicant is under agreement with the Simeone estate to purchase the Premises pending issuance of requisite municipal building permits and other related permits. The Dwelling set upon the Premises was built in 1959. The Premises is comprised of 39,998 square feet.

The Premises is located in the Scituate Zoning ByLaws R-2 Residential District, which requires a Minimum Lot Area of 20,000 sq. ft., Minimum Frontage of 100 ft., Front Setback of 30 ft., Right Side Setback of 15 feet, Left Side Setback of 15 ft., Rear Setback of 30 ft., and Height of 35 Ft.

In connection with the Application an engineered plan of the Project was submitted to the Board on behalf of the Applicant entitled: "Existing and Proposed Conditions Plan", 316 Hatherly Road, Scituate, Massachusetts, Prepared for Jen Morrison by Nantasket Survey Engineering, I.L.C.,

dated June 7, 2021 (the "Plan"). The Plan shows the Premises is comprised of 39,998 sq. ft., with existing and proposed conditions as follows: Existing Front Setback of 36.7 ft. and Proposed of 30.5 ft.; Existing Right-Side Setback of 33.3 ft. and Proposed of 28.8 ft.; Existing Left Side Setback of 42.1 ft. and Proposed of 15.5 ft.; Existing Rear Setback of 254.5 ft. and Proposed of 267.1 ft.; and Existing Height of 24.6 ft. and Proposed at 34.5 ft.

The Plan also demonstrates that both the existing and proposed Dwelling meet all existing dimensional requirements of the R-2 Residential Zoning District, except the Minimum Lot Area requirement of 20,000 square feet is not met since the Uplands portion of the Premises is comprised of only 14,705 sq. ft.; thus, the Premises must be considered nonconforming due to insufficient lot area.

The Plan shows that the existing Dwelling has a gross floor area of 1,859 sq. ft., and the proposed new Dwelling has a gross floor area of 1,938 sq. ft, which 79 sq. ft. differential is an increase of less than 5%.

Attorney Lawrence Mayo on behalf of the Applicant represented to the Board that the existing Dwelling is dilapidated and in irreparable condition due to structural defects and mold, and that the Project should be considered a substantial improvement in comport with the purposes of the Floodplain and Watershed Protection district in that it will (i) conserve the values of lands and buildings in flood-prone areas, and (ii) conserve environmental resources.

The proposed work includes the demolition of the existing single-family Dwelling and removal of the paved driveway, concrete walk, concrete paver patio, covered pergola, and shed. A new single-family Dwelling with attached decks, attached garage, and permeable driveway are proposed to be constructed above the FEMA flood zone. The replacement Dwelling and deck will be located within the general footprint of the existing structure but extend beyond the existing structure toward Hatherly Road. All mechanical systems will be located on the first floor or above. The existing cesspool installed about 1959 will be abandoned, and proposed sewer/utilities will connect to municipal sewer/utilities at Hatherly Road. The garage and replacement driveway are proposed within the southeast corner of the property, as far removed from the bordering vegetative wetlands ("BVW") boundary as possible. No structure is proposed closer to the BVW boundary than the existing house. The proposed deck along the rear of the Dwelling will be structurally attached to the house so that posts are not required. The proposed work will result in a decrease of approximately 1,476 square feet of impervious area at the site (4,086 square feet removed and 2,610 square feet constructed (36% reduction)). All work on the Project will be consistent with the requirements of the National Flood Insurance Program (the "NFIP"), State Building Code pertaining to flood resistant construction, and will improve the natural drainage course in the area.

The Applicant submitted a Notice of Intent (the "NOI") for consideration by the Conservation Commission to be heard next week. The NOI concludes that the proposed work will not have any adverse effect on any interests identified in the Wetlands Protection Act or the Town of Scituate Wetlands Protection Rules and Regulations and the project is designed to minimize adverse effects on the resource areas.

Attorney Mayo further explained that the Premises is located in the Flood Plain and Watershed Protection District; thus, pursuant to Section 470.6 of the Zoning Bylaw a Special Permit for substantial improvement of existing structures which legally existed as of March 2, 1992 is required and may be issued by the Board.


The Board members expressed their understanding of the Project and recognized the Project should be considered a substantial improvement to the Premises in comport with the purpose and intent of the Flood Plain and Watershed Protection Bylaw.

Pursuant to the powers bestowed upon the Board in §950.1 *et seq.* of the Zoning Bylaw, and based upon the evidence presented at the Hearing, the Board finds that;

1. The existing Dwelling is nonconforming solely because of insufficient lot frontage.
2. The proposed new single-family Dwelling meets all dimensional requirements for front, side and rear yard setbacks, and maximum height.
3. The new single-family Dwelling will not increase the gross floor area of the existing Dwelling by more than twenty percent (20%); thus., a finding in accordance with M.G.L. c.40A, §6 is not necessary per Section 810.2A of the Zoning Bylaw.
4. The Project will result in a substantial improvement of an existing Dwelling which legally existed on the date of amendment of the Flood Plain and Watershed Protection District Bylaw (March 2, 1992), which improvements will be (a) consistent with the requirements of the NFIP, (b) will be consistent with those provisions of the State Building Code (780 Code of Massachusetts Regulations) pertaining to flood resistant construction, in consultation with the Building Commissioner, and (c) will not affect the natural drainage patterns of the watercourse.

For the foregoing reasons, the Board, upon motion of Anthony Bucchere and seconded by Susan Harrison, unanimously voted that the Plan complies with Section 470.6 of the Town of Scituate Zoning Bylaw and to GRANT the Application for a Special Permit under Section 470.6 of the Town of Scituate Zoning Bylaw allowing Applicant to raze and reconstruct the Dwelling according to the specifications of the Plan.

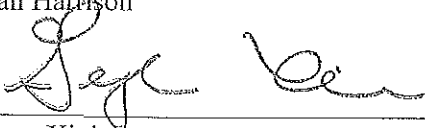
SCITUATE ZONING BOARD OF APPEALS



Anthony Bucchere, Chairman



Susan Harrison



George Xixis

Filed with the Town Clerk on: August 23, 2021.

This Finding/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 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.